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COURT OF APPEALS  
DIVISION II

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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
THE STATE OF WASHINGTON  
Division II BY \_\_\_\_\_  
DEPUTY

No. 13-1-00597-1

In re PERSONAL RESTRAINT PETITION of:

Anthony D. Parker  
Petitioner

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Personal Restraint Petition

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On Appeal From the  
Kitsap County Superior Court  
THE HONORABLE LEILA MILLS

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Petitioner's Opening Brief

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Motion to Suppress  
Evidence is Attached  
as Appendix #5

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## I. INTRODUCTION

COMES NOW the Petitioner Anthony D. Parker, Pro Se, and appears for the above-captioned matter to challenge the decision from the Kitsap County Superior Court pursuant to RAP 16.7. The Petitioner was charged and convicted of human trafficking, promoting prostitution, assaults, possession of a firearm, kidnapping, and burglary, and was sentenced to 50 years on January 14, 2014. The Petitioner appealed his conviction with Division II but was transferred to Division I due to overwhelming case loads.

Under COA No. 73667-1-I the court affirmed issues on appeal but remanded on one PRP claim to Kitsap Superior Court for a reference hearing pursuant to RAP 16.12.

In Petitioner's PRP, Parker asserted that Bremerton Police illegally seized one Johanna Holliday's cell phone as evidence. The Court ordered a reference hearing, and for Kitsap County Superior Court to make a full determination on the merits of Parker's claim that there was an illegal seizure of the cell phone of another party, whereinunder lies his claim for relief. See Appendix 1, Court of Appeals instructions.

The matter was set for argument at Kitsap Superior Court on November 6, 2017, wherein Judge Leila Mills denied Parker's claim on November 13, 2017. See Appendix 2, Ruling of Hon. Leila Mills.

## II. FACTS

On April 4, 2013, Detective Rauback observed two females, Johanna Holliday and Alisia Crettol, meet with one Travier Stevenson, a man they reported sold and used Percocet pills. Holliday got in the truck with Stevenson, and minutes later returned to Ms. Crettol's car. They drove away. Detective Rauback followed them and coordinated with patrol officers to stop the Ford Escort Crettol was driving. Detective Heffernan responded to the location of the stop, escorted Holliday to a patrol vehicle, and explained that she was pulled over for a possible drug transaction that had just occurred "as well as other crimes related to prostitution."

Detective Heffernan asked Holliday how many pills she had gotten from Stevenson. Holliday answered that she had gotten one pill from Stevenson. Det. Heffernan asked her where she had put the pill, and Holliday responded that it was in her purse, which was sitting on the passenger seat of the vehicle. Det. Heffernan went to the vehicle and withdrew the purse as well as a cell phone. He showed Holliday the phone and asked if it was hers. She responded that it was. She was asked to identify the phone number. The detective called the number, confirmed it, and took the phone.

Because Holliday agreed to meet with detectives the

following day to make a recorded statement regarding her criminal activities, she was released from detainment and allowed to drive away, even though she was in possession of drugs.

Holliday did not show up on April 5th to interview with the police. A warrant was applied for four days later on April 8. The contents of the cell phone revealed Parker's email account with Backpage, pictures of Holliday, and text messages sent from Parker. After the search of the cell phone, detectives set up a sting to arrest Holliday. On April 12, 2013, a detective posing as a client met with Holliday at a motel where she was arrested. A second cell phone was seized. Holliday spoke with the detective and on that occasion made incriminating statements against Parker. A warrant was issued and Mr. Parker was arrested April 13, 2013, for human trafficking and possession of a firearm. Mr. Parker's cell phone was seized at that time.

In sum, at no point during the traffic stop on April 4, 2013, was Holliday detained for prostitution or sex crimes. Holliday did not acknowledge to the detective that she was prostituting, nor was she asked if she was in the area of the suspected drug transaction for prostitution. Neither Holliday nor Stevenson were arrested on drug charges. Thus, the seizure of the phone on April 4 could not have been incident to an arrest. In addition, the seizure of the

other phone on April 12, 2013, incident to Holliday's arrest, and her giving statements of other crimes, was the direct result from the initial seizure and examination of the cell phone on April 4th. There were no police reports produced to support Parker's charges of burglary, possession of a firearm, kidnapping, or assaults.

The defense asserts that but for the seizure of the cell phone during the April 4 traffic stop, the officer would not have had evidence of Parker's alleged involvement at that particular time. In other words, there was no other evidence to support those convictions independent of the evidence from the cell phone that allegedly linked Parker to prostitution and human trafficking.

ARGUMENT  
Automatic Standing

Article 1, Section 7 of the Constitution of the State of Washington provides: "No person shall be disturbed in his private affairs, or his home invaded, without Authority of Law." This provision differs from the Fourth Amendment of the U.S. Constitution in that Art. 1§7 "clearly recognizes an individual's right to privacy with no express limitations." State v. White, 97 Wn.2d, 110, 640 P.2d 1061 (1982). See also Ferrier, 136 Wn.2d at 111. Accordingly, while Art. 1§7 necessarily encompasses those legitimate expectations of privacy protected by the Fourth Amendment,

its scope is not limited to subjective expectations of privacy, but more broadly protects "those privacy interests which citizens of this state have held and should be entitled to hold, safe from government trespass absent a warrant." State v. Parker, 139 Wn.2d at 494; (1999).

The Supreme Court has held that private affairs include information obtained through a cell phone. State v. Hinton, 179 Wash.2d 862, 869-70, 319 P.3d 9 (2014).

Here the court erred when it denied Parker his constitutional right to challenge the unlawful seizure of another person's cell phone (girlfriend) which held a wealth of Parker's private information, such as emails including an account that held pictures of Holliday in Backpage ads, as well as text messages. See Appendix 4, private information. The Superior Court stated that Parker lacks standing to challenge the seizure of Holliday's phone, citing State v. Jones, 146 Wn.2d 328, 332, 45 P.3d 1062 (2002).

A person may rely on the automatic standing doctrine only if the challenged police action produced the evidence sought to be used against him. To Assert automatic standing, a defendant (1) must be charged with an offense that involves possession as an essential element; and (2) must be in possession of the subject matter at the time of search and seizure.

Here, Parker was charged with possession of a firearm

in the first degree, arising from the unlawful seizure of a cell phone. The Court is invited to look at this series of events that begin with a warrantless seizure of a cell phone leading to the accused and to the firearm involved in the arrest.

On April 4, Ms. Holliday was detained for a possible drug transaction. The detective went to the car to remove Holliday's purse and cell phone. The cell phone was removed from the car without consent. Detective Heffernan stated that he was keeping the phone without consent, and Holliday was release from her detainment and was allowed to drive away, even though she was in possession of drugs. On April 8, four days later after this unlawful seizure, a warrant was applied for, which showed Parker's email and text messages. Officers then set up a sting and arrested Holliday on April 12. Ms. Holliday was interviewed with detectives and spoke very extensively about a firearm of Parker's. A warrant was sought for Mr. Parker and the firearm. See Appendix 3, Complaint for Search Warrant dated April 8, pg. 7, Complaint for Search Warrant dated April 23, pg. 4-7, RP 812-14.

Here the police could not have constitutionally executed the arrest warrant, much less conducted a search incident to an arrest, absent the unlawful seizure of the phone.

Absent a valid warrant to seize Holliday's cell phone, all evidence obtained from the search of that phone must be suppressed as fruits of the poisonous tree. State v. Meaghan, 165 Wn.App. 782, 266 P.3d 222 (2012).

Also, the court held that Jones had standing to challenge the search of a non-arrested individual's belongings. Jones, 146 Wn.2d at 339. This Court is asked to so hold.

Parker's private affairs, which are protected by Article 1, Section 7 of the Washington State Constitution, and by the Fourth Amendment of the U.S. Constitution, were disturbed when Detective Heffernan unlawfully seized a cell phone as evidence to be used against Parker absent a warrant and without consent.

Article 1, Section 7 of the Washington Constitution protects against unlawful intrusions into private affairs. State v. Harrington, 167 Wn.2d 656, 663, 222 P.3d 92 (2004). Warrantless searches and seizures are presumed unlawful unless an exception to the warrant requirement applies. State v. Grande, 164 Wn.2d 135, 141, 187 P.3d 248 (2008). Consent is a recognized exception to the requirement. State v. Reichenbach, 153 Wn.2d 126, 131, 101 P.3d 80 (2004).

In Parker's case there is evidence that Ms. Holliday did not consent to the seizure of her phone. Without a warrant, and without conforming to an exception to the



warrant requirement, Detective Heffernan violated Article 1, Section 7, Washington Constitution. Because there is evidence that Holliday did not consent to the seizure of her phone, Parker should have standing to challenge, since it was used against him. Since the cell phone was seized without a warrant, and since there was no valid exception and no consent, any evidence derived from that search, such as possession of a firearm and other offenses, becomes fruit of the poisonous tree and any subsequent conviction must be overturned. State v. Hinton, 174 Wn.2d at 882. (See Appendix 3, Complaint for Search Warrant dated April 8, pg. 7 at 18-22 where detective stated he "took the phone.")

On April 4 when Detective Heffernan unlawfully seized Holliday's cell phone, his incentive is very clear; he was looking for and gathering evidence of Parker's involvement with Holliday and prostitution.

In balancing the legitimate needs of law enforcement to obtain information in criminal investigations against the privacy interest of individuals, the Washington Privacy Act, RCW 9.73, unlike similar statutes in other states, tips the balance in favor of individual privacy at the expense of law enforcement's ability to gather evidence without a warrant. State v. Hinton, 179 Wn.2d at 872.

As a prerequisite to claiming an unconstitutional search and seizure under Wash. Const. Article 1 Section 7, a

defendant must demonstrate that he or she had a reasonable expectation of privacy in the item seized. This involves a two-part test. The defendant must show that (1) he or she had an actual (subjective) expectation of privacy by seeking to preserve something as private, and (2) society recognizes that expectation as reasonable.

When the cell phone was unlawfully seized on April 4, these facts existed: (1) Parker had an expectation of privacy for his email account and text messages (i.e. they were things he wished to preserve as private); (2) society recognized a general expectation of privacy in emails and communication through text messages; and (3) the cell phone was seized without consent, without a warrant, and was not obtained incident to arrest.

Evidence obtained as the result of an unconstitutional search or seizure must be suppressed regardless of whether suppression will promote the objectives of the exclusionary rule. State v. Boland, 115 Wn. 2d 571, 800 P.2d 1112 (1990).

As a general rule, warrantless searches are per se unreasonable. A few jealously guarded exceptions to the warrant requirement may justify a warrantless intrusion. The burden is always on the State to prove one of these narrow exceptions. The Washington Supreme Court has stated: "The ultimate teaching of our case law is that police may not abuse their authority to conduct a warrantless search or

seizure under a narrow exception to the warrant requirement when the reason for the search or seizure does not fall within the scope of the reason for the exception." State v. Kypreos, 110 Wn.App. 625, 39 P.3d 371 (2002).

The court erred in stating Parker lacks standing to challenge the unlawful seizure of the cell phone on April 4 that led to his arrest along with a firearm. However, under the decision of State v. Simpson, 95 Wn.2d 182, 622 P.2d 1199 (1980), Parker has standing to challenge the legality of the police seizure of that cell phone, and the right to invoke all the privacy interests that an individual properly in possession of the property could assert.

Automatic standing allows a remedy which protects us all in the end by protecting the accused in the beginning. Under this doctrine, the defendant "has the right to invoke all the privacy interests that an individual properly in possession of the property could assert." Simpson, 95 Wash.2d at 182, 622 P.2d 1199. Denying protection to a defendant who meets the doctrine's requirements "allows the invasion of a constitutionally protected interest to be insulated from judicial scrutiny by a technical rule of 'standing.' The inability to assert such an interest threatens all of Washington's citizens, since no other means of deterring illegal searches and seizures is readily available." Id. at 180, 622 P.2d 1199.

In State v. Williams, Mr. Williams was charged with possession of a controlled substance. The series of events in Williams case begins with a warrantless search of another person's apartment for the accused. Mr. Williams was arrested and in the search of his person, heroin was found. Williams challenged the constitutional violation which inexorably led to seizure and search of his person. The court stated that since the purpose of the automatic standing rule is to discourage unconstitutional searches by rendering the fruits inadmissible, even against a third person, it simply makes no sense to restrict the rule because the individual searched seeks to vindicate constitutional guaranties initially applicable to others. This is precisely the reason we have an automatic standing rule in the first place. State v. Williams, 142 Wn.2d 32; 11 P.3d 714 (2000).

In State v. Hinton, Mr. Hinton was charged with Possession of a controlled substance. Officers made a warrantless search of another person's cell phone, then texted Hinton for a drug buy. Hinton met with the person he thought owned the phone, but it was the police and Hinton, was arrested. Hinton challenged the warrantless search of another's cell phone. The court stated that in the absence of express consent from the phone's owner, the sender of a text message should be allowed to stand in the shoes of the phone owner for purposes of challenging the search of the

phone through which the text message was viewed. State v. Hinton, 179 Wn.2d at 881, 319 P.3d 9 (2014).

In Parker's case, the warrantless seizure of the cell phone on April 4 led to Parker's arrest and seizure of a firearm. Absent that unconstitutional seizure of the cell phone there would be no possession of a firearm, human trafficking, kidnapping, assaults, burglary, promoting prostitution, nor would there have been an arrest for Mr. Parker.

When an unconstitutional search or seizure occurs, all subsequently uncovered evidence becomes fruit of the poisonous tree and must be suppressed. State v. Ladson, 138 Wn.2d at 360.

"To deal with the question of standing we must first recall what the majority has apparently forgotten: the purpose of Automatic Standing is to protect all of our rights against unconstitutional search and seizure by removing the incentive, or profit, which prompts the unconstitutional act. Although in many, if not most, instances the evidence unconstitutionally seized is sought to be used against the person whose constitutional rights have been violated, there are also those situations where the fruit of the tree poisoned by the constitutional deprivation is sought to be used against a third person whose particular rights were not violated by the

unconstitutional search of another. Granting the third person 'automatic standing' to seek suppression of the unconstitutionally seized evidence therefore provides the government an incentive to refrain from unconstitutional conduct." State v. Williams, 142 Wn.2d at 29; 11 P.3d 714 (2000).

#### Fourth Amendment

The Fourth Amendment of the U.S. Constitution protects individuals against unreasonable searches and seizures. Searches and seizures that offend the Fourth Amendment are unlawful, and evidence obtained as a direct or indirect result of such invasions is considered 'fruit of the poisonous tree' and is inadmissible under the exclusionary rule. United States v. McClendon, 713 F.3d 1211, 1215 (9th Cir. 2013).

On November 13, 2017, the court erred stating that Parker lacked standing to challenge the seizure of another's cell phone that was taken without consent or warrant, nor was obtained incident to arrest.

If the Automatic Standing exception is eliminated, Mr. Parker can still challenge the seizure of Ms. Holliday's phone under the Fourth Amendment if he has a legitimate expectation of privacy in the place searched or the item seized. State v. Boot, 81 Wn.App. 546, 550, 915 P.2d 592

(1992). An accused must establish more than a legitimate presence. Under the Fourth Amendment, there must be both a subjective and objective expectation of privacy to be reasonable. State v. Carter, 74 Wn.App. at 329-30. Parker's communication through text messages, and an email account with provocative pictures of Holliday, are recognized by this state as private affairs. See State v. Hinton, 179 Wn.2d 862, 319 P.3d 9 (2014); also United States v. Forrester, 512 F.3d 500, 511 (9th Cir. 2008).

In Evans, our Supreme Court held that a privacy interest could exist even in an item the defendant did not own. State v. Evans, 159 Wn.2d at 406-09.

The Complaint for Search Warrant dated April 8 shows that Detective Heffernan was investigating Parker but did not supply any legitimate evidence, citing only information which would have had a privacy interest for Parker in the cell phone of a non-arrested individual which was unlawfully seized. Private information stored inside the phone included Parker's email account with Backpage, provocative photos of Holliday, and text messages from Parker to Holliday. After reviewing the contents, it was a domino effect to Parker's arrest with a firearm. The contents from that warrantless seizure of Parker's private affairs was used to convict him of multiple criminal offenses.

The essence of the constitutional provision prohibiting

unlawful searches and seizures is not merely that evidence so acquired may not be used before a court, but that it shall not be used at all. Wong Sun v. United States, 371 U.S. at 485.

When Detective Heffernan was asked if he had subpoenaed Parker's email account to retrieve his private information, he stated that he had not. See RP, Appendix 3, pg. 997 at 17-18.

In United States v. Forrester, 512 F.3d 500, 511 (9th Cir. 2008), the Ninth Circuit Court of Appeals also held that a person has a privacy interest in the content of email in the same manner that a person has a reasonable privacy interest in physical mail.

Here, there is evidence that even though the phone did not initially belong to Parker, his private affairs, such as his email account and text messages, were stored inside. This evidence shows that Parker exercised a privacy interest in the cell phone despite not owning it, and that he had a constructive possession of the phone.

If a defendant is able to establish a legitimate expectation of privacy in the area searched or property seized, then he has satisfied the Standing requirement under a Fourth Amendment analysis and does not need to rely on automatic standing. State v. Kypreos, 110 Wn.App. 662, 39 P.3d 371 (2000).



As a general rule, the rights assured by the Fourth Amendment are personal rights, which may be enforced by exclusion of evidence only at the instance of one whose own protection was infringed by the search and seizure. Thus, a defendant generally may challenge a search or seizure only if he or she has a personal Fourth Amendment privacy interest in the area searched or the property seized. The defendant must personally claim a justifiable, reasonable, or legitimate expectation of privacy that has been invaded by government action. State v. Simpson, 95 Wn.2d 175, 181, 622 P.2d 1199 (1980).

The court erred when it stated Parker lacks standing citing State v. Jones, 146 Wn.2d 328, 332, 45 P.3d 1062 (2002), for a cell phone that was unlawfully seized which contained a wealth of Parker's private affairs.

However, in State v. Carter, 127 Wash.2d 836, 841, 904 P.2d 240 (1995), the Court held that a defendant who lacks automatic standing may still possess a legitimate expectation of privacy in the place searched or the thing seized, and on that basis be able to challenge the search or seizure. See United States v. Salvucci, 448 U.S. 83, 86-87, 100 S.Ct. 2547, 2549-50, 65 L.Ed.2d 619 (1980).

Mr. Parker had a legitimate expectation of privacy in Ms. Holliday's cell phone that was unlawfully seized as evidence under the Federal and State Constitution.

Admission of evidence obtained in violation of either the Federal or State Constitution is an error of constitutional magnitude. State v. Contreras, 92 Wn.App. 307, 318, 466 P.2d 915 (1998)(citing State v. Micrz, 72 Wn.App. 783, 866 P.2d 65 (1994)).

The Fourth Amendment secures "the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures." U.S. Const. Amend. IV. The Fourth Amendment protects reasonable and legitimate expectation of privacy. Katz v. United States, 389 U.S. 347, 350-51, 88 S.Ct. 507, 19 L.Ed.2d 576 (1967). The Fourth Amendment protects "people, not place," Id at 351. Evidence obtained in violation of the Fourth Amendment, and evidence derived from it (such as human trafficking, assaults, possession of a firearm, promoting prostitution, kidnapping, burglary), must be suppressed as the "fruit of the poisonous tree." Wong Sun v. United States, 371 U.S. 471, 484-87, 83 S.Ct. 407, 9 L.Ed.2d 441 (1963); United States v. Lundin, 817 F.3d 1151, 1157 (9th Cir. 2016); United States v. McClendon, 713 F.3d 1211, 1215 (9th Cir. 2013)("Searches and seizures that offend the Fourth Amendment are unlawful and evidence obtained as a direct or indirect result of such invasions is considered 'fruit of the poisonous tree' and is inadmissible under the exclusionary rule.")(citing Wong Sun, 371 U.S. at 484-87).

### Unlawful Seizure Not Cured

The Court erred stating that an unlawful seizure can be cured by a subsequent warrant.

On April 4, 2013, when Ms. Holiday was detained, police were interested in detaining her to target and investigate Mr. Parker. Detective Heffernan "took her cell phone" and the contents of the cell phone included Parker's text messages and email account with Backpage ads for the purpose of using them as evidence against Mr. Parker.

However, Holliday was not arrested on April 4 or detained for prostitution. There was no consent from Holliday or Parker when the officer intruded into their private affairs when he unlawfully seized the phone. Then, Officer Heffernan waited four days, until April 8, 2013, to apply for a warrant. He stated that he "took the cell phone from a non-arrested individual." See Appendix 3, Complaint for Search Warrant, dated April 8, 2013, pg. 7, and Complaint for Search Warrant dated April 23, 2013, pg. 4.

The discovery of a warrant cannot by itself dissipate the taint of an initial illegality, because such a per se rule could "'create a new form of police investigation' by routinely illegally seizing individuals, knowing that the subsequent discovery of a warrant would provide after-the-fact justification for illegal conduct." State v. Hummons,

227 Ariz.78, 253 P.3d 275, 278 (2011) (quoting United States v. Gross, 624 F.3d 309, 320-21 (6th Cir. 2010)).

Treating a warrant as an intervening circumstance poses a potential for abuse, and exclusion of the evidence acts as a deterrent to such conduct.

For example, in State v. Dimmick, 248 Or.App. 167, 273 P.3d 212 (2012), Dimmick appealed his convictions of four counts of unlawful delivery of methamphetamine, and three counts of unlawful possession of methamphetamine. He argued that the trial court erred in failing to suppress a backpack and its contents, which he argued were unlawfully seized during a traffic stop.

The Oregon Court of Appeals found:

The state, as noted above, contends that the backpack was not searched pursuant to an inventory policy, but pursuant to a warrant—that is, that the search warrant rendered the prior illegal seizure so attenuated from the discovery of evidence that no suppression was necessary. [cite omitted] We disagree. If a defendant meets the burden of establishing a "factual nexus" between the unlawful police conduct and the challenged evidence, then the burden of persuasion shifts to the state to prove that the evidence was not tainted by the unlawful conduct. Here, there is a factual nexus between the unlawful seizure and the subsequent search warrant. The backpack would not have been in the police's possession but for the unlawful seizure.

Dimmick, 273 P.3d at 217-18.

In Dimmick, the prosecutor argued that the officer did not search the backpack pursuant to an inventory policy, but rather, that police searched the backpack pursuant to a

search warrant. The Court in Dimmick rejected that argument. The Court concluded that the backpack was never lawfully seized. The Court reversed and remanded the conviction to which the backpack related. Dimmick, 273 P.3d at 216.

In the Parker case there is a factual nexus between the unlawful seizure and the subsequent search warrant. The cell phone would not have been in the police's possession but for the unlawful seizure. Thus, the trial court erred in admitting Parker's private affairs (email account and text messages) as evidence at trial. This Court is asked to so hold.

The constitutional requirement that searches and seizures be made only pursuant to 'authority of law' is complied with where such searches and seizures are made incident to a lawful arrest. Thus it is the general rule that, where a person is legally arrested, the arresting officer has a right to search such person and take from his possession money or goods which the officer reasonably believes to be connected with the supposed crime, and discoveries made in this lawful search may be shown as evidence at trial. State v. Micheals, 60 Wn.2d at 643. Here, on April 4, there was neither crime of prostitution, nor was Holliday arrested, nor did Parker or Holliday consent to the seizure of the phone. As Officer Heffernan

state, he "took the phone." Id. at 7.

If the evidence was seized without authority of law, it is not admissible in court. We suppress evidence not to punish the police, who may easily have erred innocently. We suppress unlawfully seized evidence because we do not want to become knowingly complicit in an unconstitutional exercise of power. See generally Olmstead v. United States, 277 U.S. 438, 484-85, 48 S.Ct. 564, 72 L.Ed. 944 (1928)(Brandeis, J. dissenting); State v. Day, 161 Wn.2d 894.

Article 1, Section 7 does not use the words "reasonable or unreasonable." Instead, it requires 'authority of law' before the State may pry into the private affairs of individuals. Our constitution protects legitimate expectations of privacy: "those privacy interests which citizens of this state have held, and should be entitled to hold, save from government trespass absent a warrant." State v. Myrick, 102 Wn.2d at 511.

When an unconstitutional search or seizure occurs, all subsequently uncovered evidence becomes fruit of the poisonous tree and should be suppressed. State v. Magnuson, 107 Wn.App. at 227, 26 P.3d 986 (2001).

#### Fourth Amendment Particularity Requirement

The Fourth Amendment requires that search warrants "particularly describe the place to be searched, and the

persons or things to be seized." U.S.Const., Amend. IV. As this court has explained, "The purposes of the search warrant particularity requirement are the prevention of general searches, prevention of the seizure of objects on the mistaken assumption that they fall within the issuing magistrate's authorization, and prevention of the issuance of warrants on loose, vague, or doubtful bases of fact." State v. Perrone, 119 Wn.2d at 545.

As to the second purpose underlying the particularity requirement, conformance with the requirement eliminates the danger of unlimited discretion in the executing officer's determination of what to seize. United States v. Blakency, 942 F.2d 1001, 1026 (6th Cir.). In Parker's case there are three warrants, one dated April 8, 2013, and two others dated April 23, 2013. These three warrants are overly broad where it states the following: "All information stored in the above described cellular phone that can be extracted through a forensic examination." Appendix 3, April 8, pg. 8, and April 23, pg. 8.

Also, there is no particularity in the described items to be seized: "Not limited to images, video, contacts, conspirator phone numbers, address, text messages, email messages, ledgers, financial transactions, electronic documents." This broad language and general descriptions granted the officer executing the warrant too much

discretion as to what to seize, rather than to a judge.

The Fourth Amendment requires that for a warrant to be valid it must "particularly describe the place to be searched, and the persons or things to be seized." U.S. Const., Amend. IV. This particularity requirement makes general searches under a warrant impossible and prevents the seizure of one thing under a warrant describing another. As to what is to be taken, nothing is left to the discretion of the officer executing the warrant. United States v. Washington, 797 F.2d at 1472 (9th Cir. 1986).

Even where the Constitution requires scrupulous exactitude, search warrants are tested and interpreted in a common sense, practical manner rather than in a hypertechnical sense. Perrone, 119 Wn.2d at 549. However, neither common sense nor particularity allows the court to assume there are limitations on a warrant's scope where such limitations are plainly absent. There, these warrant's rote citation to Human Trafficking, Promoting Prostitution, and Prostitution statutes, is at best ambiguous as to whether it limits the subsequent list of items to be seized. Because that ambiguity means that officers, rather than judges, will decide the scope, it fails not just Perrone, but the core purpose of the historically grounded particularity requirement. See Stanford, 379 U.S. at 485-86.



Here the person, Parker, subject to the search does not know what the officer may or may not seize. Due to the broad language where the warrant states: "All information stored in the above-described cellular phone that can be extracted through forensic examination or other means..." These warrants fail to inform the person subject to the search what items the officers were authorized to seize.

In Riley, the purpose of a warrant is not only to limit the executing officer's discretion, but to inform the person subject to the search what items the officer may seize. State v. Riley, 121 Wn.2d at 29-30 (1993), United States v. Hayes, 794 F.2d 1348, 1355 (9th Cir. 1986).

When the material to be seized pursuant to a search warrant is Human Trafficking, Promoting Prostitution, but the party seeking the warrant cannot identify the specific items, the particularity requirement of the Fourth Amendment can be satisfied by limiting the items subject to seizure by stating specifically in the warrant the type of material that qualifies as Human Trafficking and Promoting Prostitution.

As the Court held in Perrone, using statutory language to describe the materials sought would likely make the warrant sufficiently particular. But the inclusion of the citation to the statute at the top of this warrant did nothing to make these warrants more particular. Not only

did it fail to add helpful information—such as the definitions of Human Trafficking and Promoting Prostitution—it also did not modify or limit the evidence the officer could seize. State v. Besola, 184 Wn.2d at 615, 359 P.3d 779 (2015); State v. Perrone, 119 Wn.2d at 554.

There is no probable cause for the items in the cellular phone, such as images, video, contacts, conspirator phone numbers, address, text messages, email messages, ledges, financial transactions, or electronic documents. This is a general description of items that does not specifically relate to the crimes of Human Trafficking and Promoting Prostitution. "There is no particularity to describe the items to be seized."

Thus, a warrant is overbroad if it fails to describe with particularity items for which probable cause exists, or because it describes, particularly or otherwise, items for which probable cause does not exist. State v. Maddox, 116 Wn.App. 805, 67 P.3d 1135 (2003).

As to prevention of general searches, "the specific evil is the 'general warrant' abhorred by the colonists..." Coolidge v. New Hampshire, 403 U.S. 443, 467, 29 L.Ed.2d 564, 91 S.Ct. 2022 (1971).

Officer seized lawfully possessed images, such as family pictures, pictures with friends. See Appendix 4, Private Information.

General warrants, of course, are prohibited by the Fourth Amendment. "This problem posed by the general warrant is not that of intrusion per se, but the general, exploratory rummaging in a person's belongings... The Fourth Amendment addresses the problem by requiring a particular description of the things to be seized." Andresen v. Maryland, 427 U.S. 463, 480, 49 L.Ed.2d 627, 96 S.Ct. 2737 (1976)(quoting Coolidge at 467); see also LoJ. Sales, Inc. v. New York, 442 U.S. 319, 60 L.Ed.2d 920, 99 S.Ct. 2319 (1979); State v. Perrone, 119 Wn.2d at 545.

Where a search warrant is found to be an unconstitutionally general warrant, the invalidity due to unlimited language of the warrant taints all items seized without regard to whether they were specifically named in the warrant. State v. Perrone, 119 Wn.2d at 557.

Here, the officer was able to intrude into private communication (text messages) of all the individuals listed on the phone because the warrant does not specify which person's text messages were to be seized. This is an unconstitutional violation of Parker's rights under the Fourth Amendment and First Amendment.

Warrants for materials protected by the First Amendment require a heightened degree of particularity. State v. Perrone, 119 Wn.2d at 547-48 (quoting Stanford, 379 U.S. at 485).

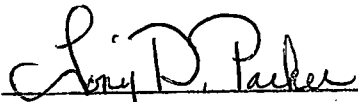
Applying the severance doctrine would be utterly inconsistent with the protections afforded by the Fourth Amendment. Here is an overbroad warrant vesting too much discretion in the executing officer, and is so broad as to authorize general searches of private communication (text messages) protected by the First Amendment. The executing officer was allowed to rummage through virtually all the cellular phones with absolutely no meaningful guidelines as to what was seizeable.

Because these warrants are overbroad and fail to meet the Fourth Amendment Particularity Requirement, any evidence obtained must be suppressed, and convictions for Human Trafficking and Promoting Prostitution reversed.

## CONCLUSION

Since Petitioner had a reasonable expectation of privacy in his email and text messages, and since police seized the cell phone without the authority of a legal warrant, the trial court erred in refusing to suppress evidence obtained as a direct result of violating Petitioner's right to privacy under both Washington Constitution Article 1, Section 7, and United States Constitution, Fourth Amendment. This evidence includes Parker's personal and private affairs as well as evidence of possession of a firearm and other criminal offenses. Absent the unlawful seizure on April 4, there is no basis upon which Petitioner's convictions would be supported. Therefore, this Court should reverse Petitioner's convictions and remand with instructions to grant his motion to suppress.

Respectfully submitted this 6<sup>th</sup> day of March, 2018.



Anthony D. Parker, #776122  
Stafford Creek Corr. Ctr.  
191 Constantine Way  
Aberdeen, WA 98520

# APPENDIX #1

STATE OF WASHINGTON, )  
 )  
 )  
 Respondent, )  
 )  
 )  
 v. )  
 )  
 )  
 ANTHONY DEWAYNE PARKER, )  
 )  
 )  
 Petitioner. )  
 )

No. 73667-1-I

ORDER ON STATE'S  
MOTION TO  
SUPPLEMENT RECORD

In accordance with our further instructions, the superior court conducted a reference hearing solely on the one claim we referred to that court. Thereafter, that court entered its Findings of Fact on Reference Hearing dated January 30, 2017. We have reviewed these findings and other material submitted to this court after the reference hearing.

Based on our review, and being duly advised, this court hereby

ORDERS that the superior court shall make its determination on the merits of Parker's claim that there was an illegal search and seizure of the cell phone of another that underlies his claim for relief. Pursuant to RAP 16.12 and the other Rules of Appellate Procedure, the court shall make its findings and conclusions with respect to that claim. In sum, the superior court shall make a full determination on the merits of this claim based on this revised instruction.

This court further

ORDERS that, in view of the revised instruction to the superior court, the State's Motion to Supplement Record dated February 28, 2017 is denied without prejudice.

Dated this 31<sup>st</sup> day of March 2017.

Cox, J.

Trickey, ACJ

Duffy

2017 MAR 31 PM 2:04

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COURT OF APPEALS DIV. 1  
STATE OF WASHINGTON



# APPENDIX #2

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NOV 13 2017

ALISON H. SONNTAG

SUPERIOR COURT OF THE STATE OF WASHINGTON FOR KITSAP COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

ANTHONY DEWAYNE PARKER,

Defendant.

No. 13-1-00597-1

CONCLUSIONS OF LAW ON  
REFERENCE HEARING AND ORDER

THIS MATTER comes before the Court for a reference hearing ordered by the Court of Appeals in *State v. Parker*, Court of Appeals No. 73667-1-I. This Court is charged with making a determination on the merits of Defendant Parker's personal restraint petition claim that there was an illegal search and seizure of the cell phone of another that underlies his claim for relief.

PROCEDURAL HISTORY

On November 26, 2013, a jury found Defendant Parker guilty of multiple counts of assault, human trafficking, promoting prostitution, burglary, kidnapping, unlawful possession of a firearm, witness tampering, and firearm enhancements. On January 14, 2014, he was sentenced to a total confinement of 601 months. Parker filed a direct appeal of his judgment and sentence on numerous grounds, which was denied by the Court of Appeals on October 19, 2015. However, in the same opinion, the Court of Appeals found that Parker's consolidated personal restraint petition contained one claim that required further consideration—whether there was an illegal search and seizure of another's cell phones, violating Parker's privacy rights in his messages on those cell phones. The Court of Appeals transferred the petition back to this Court for the appointment of counsel and for a reference

CONCLUSIONS OF LAW  
AND ORDER

1 hearing as to the alleged illegal search and seizure issue only, and otherwise dismissed the  
2 petition:

3 On the present record and the present status of briefing, we are unable  
4 to determine whether Parker is entitled to relief. Accordingly, we transfer the  
5 petition to the superior court for appointment of counsel, a reference hearing,  
6 and findings of fact. The findings shall be transmitted to this court for further  
7 action.

8 The superior court's findings of fact should include, without  
9 limitation:

- 10 1. A specification of all evidence on J.H.'s cell phones to which Parker's  
11 asserted privacy interest extended;
- 12 2. Whether such evidence was admitted at trial; and
- 13 3. If not admitted, whether such evidence led to other evidence that was  
14 admitted at trial.
- 15 4. A specification of what evidence admitted at trial, independent of that  
16 listed in paragraphs 1 to 3, supported Parker's convictions.

17 We affirm Parker's judgment and sentence for the direct appeal. We  
18 dismiss his personal restraint petition to the extent of all claims except for the  
19 illegal search and seizure claim. With respect to that claim, we transfer the  
20 petition to the superior court for appointment of counsel and a reference  
21 hearing on that claim only. Thereafter, the court shall enter findings of fact  
22 and transmit them to this court for further action, all pursuant to RAP 16.12.

23 Attorney Peter Connick was appointed to represent Parker at the reference hearing which  
24 was held January 30, 2017. That same day, the Court entered Findings of Fact, which were  
25 transmitted to the court of appeals for further action. Based upon those findings, the Court  
26 of Appeals issued an Order on March 31, 2017, remanding the matter back to this Court, and  
27 directing that

28 the superior court shall make its determination on the merits of Parker's claim  
29 that there was an illegal search and seizure of the cell phone of another that  
30 underlies his claim for relief. Pursuant to RAP 16.12 and the other Rules of  
Appellate Procedure, the court shall make its findings and conclusions with  
respect to that claim. In sum, the superior court shall make a full  
determination on the merits of this claim based on this revised instruction.

This Court thereupon issued a briefing order and set a hearing on the merits of  
Parker's claim of an illegal search and seizure of Johanna Holliday's ("Holliday") cell

1 phones for November 6, 2017. Briefing was provided by the parties and the hearing was held  
2 as scheduled.<sup>1</sup>

### 3 ANALYSIS

4 In its analysis of Parker's claim, the Court incorporates by reference the Findings of  
5 Fact entered January 30, 2017. Two phones were seized from Holliday, on two different  
6 days, with both containing text messages from Parker that were later admitted as evidence at  
7 Parker's trial. Parker claims that there was an illegal search and seizure of Holliday's phones  
8 that underlies his claim for relief. To support this argument, Defendant relies upon *State v.*  
9 *Hinton*, 179 Wn.2d 862, 319 P.3d 9 (2014). In *Hinton*, the Supreme Court of Washington  
10 held that a "text message conversation was a private affair protected by the state constitution  
11 from warrantless intrusion." *Id.* at 865.

12 The cell phones in question in this case were seized from Holliday on April 4, 2013  
13 ("ZTE")<sup>2</sup> and on April 12, 2013 ("Motorola")<sup>3</sup>. Defendant argues that the ZTE phone was  
14 illegally seized as the result of an illegal pretextual stop and that the warrant for the search  
15 of the phone lacked the required particularity. Defendant contends that the search of the ZTE  
16 phone led to a sting operation resulting in the arrest of Holliday and the seizure of the  
17 Motorola phone, and thus, the Motorola phone and any evidence collected from it must also  
18 be suppressed as fruit of the poisonous tree.

19 *Hinton* makes clear that a defendant has a privacy interest in the text messages sent  
20 to another person's phone, but its analysis does not extend to the privacy interest in the phone  
21 itself. To challenge seizure of either phone, Parker must establish that he has standing to  
22 challenge the seizure. Under *State v. Jones*, 146 Wn.2d 328, 332, 45 P.3d 1062 (2002), to  
23 claim automatic standing, a defendant (1) must be charged with an offense that involves  
24 possession as an essential element; and (2) must be in possession of the subject matter at the  
25 time of the search or seizure. Because Parker meets neither of these requirements, he lacks  
26 standing to challenge the seizure of Holliday's phones.

27 <sup>1</sup> At the hearing, the State provided proposed "Conclusions of Law on Reference Hearing and Order Denying  
28 PRP." The Court provided Defendant an opportunity to provide his own proposed order, which was received  
29 November 10, 2017.

30 <sup>2</sup> Admitted as Trial Exhibit 11.

<sup>3</sup> Admitted as Trial Exhibit 13.

1 Because Parker lacks standing to challenge the seizure of either the ZTE phone or the  
2 Motorola phone, Parker may only challenge the search of the phones. The challenge to the  
3 search of the phones, which resulted in the discovery of his texts, fails as a warrant based  
4 upon probable cause was properly obtained for the ZTE and the Motorola phones on April  
5 8, 2013 and April 23, 2013 respectively, before the search of the phones was conducted.  
6 Parker's contention that the warrant application for the ZTE was insufficient is without merit,  
7 as the affidavit submitted by the detective was not based on generalizations, it provided  
8 extensive factual information, was specific as to the information being sought, and explicitly  
9 tied the criminal activity to the phone sought to be searched. Because the police did not  
10 search either of the phones prior to properly obtaining a warrant, Parker's privacy rights  
11 under *Hinton* were not violated by the search of the ZTE phone and the Motorola phone, and  
12 any other evidence obtained by the search of the ZTE phone is not suppressed as fruit of the  
13 poisonous tree.<sup>4</sup>

14 Based upon the foregoing, it is hereby

15 **ORDERED** that the evidence obtained pursuant to search within Holliday's  
16 cellphones is not suppressed based upon Parker's claim that his privacy rights were violated  
17 by the illegal search and seizure of another's cell phone. Further, to the extent that this Court  
18 is called upon to determine Parker's PRP based upon his claim of illegal search and seizure,  
19 the PRP is hereby **DENIED**.

20 Dated: This 13 day of November, 2017.

21  
22   
23 JUDGE LEILA MILLS

24  
25  
26  
27  
28  
29 <sup>4</sup> Because Parker lacks standing to challenge the seizure of the ZTE phone the Court does not reach the issue  
30 of whether to April 4th stop of Holliday was an illegal pretextual stop.

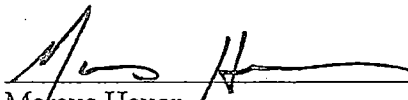
DECLARATION OF MAILING

I, Marcus Hauer, certify under penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

Today, I caused a copy of the foregoing document to be served in the manner noted on the following:

Randall Sutton Kitsap Co Prosecutor's Office 614 Division St., MS-35 Port Orchard, WA 98366-4614	<input checked="" type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email: rsutton@co.kitsap.wa.us
Peter Connick 12351 Lake City Way NE Ste 203 Seattle, WA 98125-5437	<input checked="" type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email: peterconnick@gmail.com

DATED this November 13, 2017 at Port Orchard, Washington.

  
Marcus Hauer  
Staff Attorney

CONCLUSIONS OF LAW  
AND ORDER

# APPENDIX #3

IN THE KITSAP COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

v.

BLACK ZTE CELLULAR PHONE MODEL Z431, S/N  
322423142390, BEING STORED IN THE  
BREMERTON POLICE DEPARTMENT'S SECURE  
EVIDENCE LOCKER IN THE CITY OF BREMERTON,  
COUNTY OF KITSAP, STATE OF WASHINGTON,

Defendant.

)  
) No: 20130160  
)  
) COMPLAINT FOR SEARCH  
) WARRANT FOR FRUITS /  
) INSTRUMENTALITIES AND / OR  
) EVIDENCE OF THE CRIME OF RCW  
) 9A.40.100 Human Trafficking, RCW  
) 9A.88.080 Promoting Prostitution and/or  
) RCW 9A.88.030 Prostitution

RECEIVED AND FILED  
APR - 8 2013  
DAVID W. PETERSON  
KITSAP COUNTY CLERK

I, DETECTIVE RYAN HEFFERNAN, being first duly sworn upon oath, depose and say  
I am a duly appointed, qualified, and acting detective assigned to the Bremerton Police  
Department's Special Operations Group (SOG), and am charged with responsibility for the  
investigation of criminal activity occurring within Kitsap County. I have probable cause to  
believe, and do, in fact, believe, that in violation of the laws of the State of Washington with  
respect to RCW 9A.40.100 Human Trafficking, RCW 9A.88.080 Promoting Prostitution and/or  
RCW 9A.88.030 Prostitution, evidence and/or fruits and/or instrumentalities of said offense(s) are  
presently being kept, stored or possessed, and can be located and seized in the above-described  
cellular phone. My belief being based upon information acquired through personal interviews  
with witnesses and other law enforcement officers, review of reports and personal observations,  
said information being as further described herein-

I have been employed as a police officer by the City of Bremerton Police Department  
since July 2006. I have been a SOG Detective since September 2011. Prior to becoming a police  
officer, I served as an Assistant Attorney General for the State of Alaska. I received a BA with  
honors from Lafayette College (1998), and a JD from Rutgers School of Law (2002).

In July 2006, I attended 720 hours of training at the Washington State Criminal Justice  
Training Center in Burien, Washington. There, I received 14-hours of basic narcotics training.

COMPLAINT FOR SEARCH WARRANT; Page 1



Russell D. Hauge, Prosecuting Attorney  
Adult Criminal and Administrative Divisions  
614 Division Street, MS-35  
Port Orchard, WA 98366-4681  
(360) 337-7174; Fax (360) 337-4949



1 The training included instruction in drug and drug paraphernalia identification, as well as  
2 identifying impairment indicators associated with specific drug use. Instruction pertained to each  
3 of the seven categories of drugs: depressants, stimulants, hallucinogens, phencyclidine and  
4 narcotic analgesics.

5 In February of 2010 I attended an 80-hour basic drug enforcement class presented by the  
6 Drug Enforcement Administration. The training included, but was not limited to the following:  
7 pharmacology/drug ID, electronic narcotics' investigation, criminal interdiction, tactical entries  
8 and surveillance procedures

9 In September 2010 I attended a 24-hour methamphetamine investigations course  
10 presented by the Midwest Counterdrug Training Center. The training pertained to  
11 methamphetamine lab identification, and considerations for writing and executing  
12 methamphetamine related search warrants.

13 In November 2012, I attended 20 hours of training through the California Narcotics  
14 Officers Association (CNOA). The course topics included instruction on informant management,  
15 search and seizure issues, controlled buy and buy-bust operations, and undercover officer  
16 survival.

17 During my law enforcement career, I have participated in multiple narcotics  
18 investigations, which have resulted in arrests and seizures of various controlled substances  
19 including Marijuana, Cocaine, Methamphetamine, Black Tar Heroin, Ecstasy, Molly and  
20 Ketamine. Through these investigations and discussions with other experienced law enforcement  
21 agents, I have become familiar with the methods of packaging illegal narcotics, values of illegal  
22 narcotics, and terms associated with the manufacture, distribution and use of these substances. I  
23 have been an affiant for approximately 25 narcotics related search warrants, and participated in  
24 the execution of narcotics related search warrants that have resulted in arrests, and the discovery  
25 of illegal narcotics and items related to the use, packaging, distribution, and manufacturing of  
26 these substances.

27 In addition to narcotics related crimes, I have participated in investigations pertaining to  
28 prostitution. Through the course of these investigations, I have interviewed numerous prostitutes  
29 and pimps. I have found through my training and experience that these investigations often  
30 overlap with drug investigations. Specifically, I have learned that those individuals who promote  
31

COMPLAINT FOR SEARCH WARRANT; Page 2



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1 prostitution, commonly referred to as pimps, sometimes use drugs as a means to maintain control  
2 over prostitutes. It is common for those individuals who promote prostitution to pay prostitutes  
3 with drugs, and withhold drugs when they are dissatisfied with performance. Pimps will often  
4 utilize well established prostitutes to mentor new prostitutes, and facilitate their transition into the  
5 illicit activity. I also know that pimps and prostitutes will often utilize internet websites such as  
6 tnaboard.com and backpage.com to advertise for prostitution. Pimps and prostitutes will often use  
7 their cellular phones to post ads on these websites, and communicate with clients and each other  
8 about their illicit activities.

9 I also know that people engaged in prostitution perform their services either in a fixed  
10 location that they designate, such as a motel room, or in a location determined by the client. This  
11 distinction is commonly referred to as an "in" or "out" call. Because of the inherent dangers  
12 associated with prostitution, pimps or their agents will often drive prostitutes to out calls and  
13 remain in the area during the encounter. This practice provides a degree of perceived protection  
14 for the prostitute, and allows the pimp to immediately be paid for the service. In addition to  
15 driving their prostitutes to specific locations for out calls, I know from my training and  
16 experience that pimps often use their vehicles as a private meeting locations to discuss their  
17 criminal business enterprises, which often extend beyond promoting prostitution.

18 This affidavit is made in support of an application for a search warrant for the cellular  
19 telephone described as follows:

20 **BLACK ZTE CELLULAR PHONE MODEL Z431, S/N 322423142390, BEING STORED IN**  
21 **THE BREMERTON POLICE DEPARTMENT'S SECURE EVIDENCE LOCKER IN THE CITY OF**  
22 **BREMERTON, COUNTY OF KITSAP, STATE OF WASHINGTON**

23 PROBABLE CAUSE: Over the course of the past several months, SOG detectives have  
24 investigated a human trafficking operation led by Anthony D Parker (6/15/79) and his former  
25 girlfriend, Lorena A Llamas (5/31/84). Llamas has been incarcerated in Kitsap County Jail since  
26 November 17, 2012. While there, Llamas has groomed inmates to work as prostitutes, and sent  
27 them out to work for Parker. Detectives identified one of these prostitutes as Johanna Holliday.  
28 Holliday used her black ZTE cellular phone model Z431, S/N 322423142390 (hereinafter  
29 referred to as the "Phone") to communicate with Llamas, Parker and clients about prostitution  
30 activities. Holliday may have also used the Phone to advertise prostitution services on  
31



1 backpage.com between December 2012 and April 2013. As set forth below, there is probable  
2 cause to believe that evidence of human trafficking, promoting prostitution and/or prostitution  
3 will be found in the Phone, which is currently ~~be~~ stored in the Bremerton Police Department's  
4 secure evidence room.

5 Over the past several months, detectives reviewed jail phone calls that Llamas made to  
6 Parker and Holliday. All of the calls to Holliday were made to (360) 908-2471, the number  
7 associated with the Phone. The number is listed for Holliday in the jail's inmate record  
8 database. Holliday confirmed that the number is associated with the Phone. I have called the  
9 Phone, and confirmed that the number matches it.

10 During jail calls, Holliday openly discusses her prostitution activities with Llamas.  
11 Holliday tells Llamas that she (Holliday) is staying at Parker's residence, "posting" and taking  
12 calls. I know from my training and experience that the term posting refers to placing  
13 advertisements for prostitution on various websites. Through my investigation, I learned that  
14 Holliday posts ads on backpage.com.

15 In one instance, Holliday tells Llamas that that she (Holliday) had intercourse with a  
16 customer after giving him a hand-job with lotion. Holliday acquired a rash, and had to go to the  
17 store with Parker to buy medicated douche. In another phone call, Holliday discusses her  
18 relationship with an Asian prostitute working for Parker. Holliday states that Parker views her  
19 (Holliday) as the "top bitch" and instructed her (Holliday) to "check the Asian bitch." I reviewed  
20 a backpage.com ad featuring Holliday and an Asian female, who I identified through a review of  
21 available police databases as Rancia J Camacho (5/19/86). The ad states, "two girl special -sexxy  
22 blonde and hot Asian!!" Detectives interviewed Camacho, who confirmed that Holliday worked  
23 as a prostitute. Camacho told detectives that she forwarded her photos to Holliday's Phone, which  
24 Holliday then posted on backpage.com. Camacho believed that Holliday used the Phone to post  
25 the ads. The backpage.com ad featuring Camacho and Holliday lists Parker's phone number;  
26 however the majority of Holliday's ads list the number associated with her Phone.

27 On 1/23/13, Parker tells Llamas that he assaulted "Baby Doll." Through the course of my  
28 investigation, I learned that Baby Doll is a moniker used by Holliday. Parker says that Holliday  
29 has been "stealing shit . . . money and drugs." Parker states that Holliday "ain't going anywhere  
30 unless she wants her other eye shut up." Llamas asks Parker if he (Parker) already hit Holliday,  
31



1 and then says something like, "Of course you did." During a phone call on 2/2/13, Holliday  
2 describes the assault in detail. Holliday tells Llamas that Parker picked her up by the hair, threw  
3 her against a wall, ripped out a chunk of her hair and gave her a black eye. Holliday says that she  
4 "pissed herself twice" during the assault. I later spoke with a witness, who corroborated  
5 Holliday's account of events.

6 On or around 2/11/13 Parker was arrested for burglary and an outstanding DOC warrant.  
7 He (Parker) immediately calls Holliday on the Phone, and tells her, "You need to follow my  
8 orders . . . what the fuck I tell you from right now until I get the fuck out of here in three days."  
9 Parker also cautions Holliday that that "[her] money better be right when [he] gets out." Parker  
10 instructs Holliday to help with his bail saying, "Take that little bit of chump change that you  
11 fucking got and give it to Jaccet." I know that Jaccet is the moniker used by Tyler F Williams  
12 (1/26/76), a well-known local gang member. When Holliday starts to sob, Parker says, "I don't  
13 want to hear any crying bitch. . . . stop crying nigga, I want someone to be making fucking  
14 moves." During telephone calls during this time period with Llamas, Holliday says that Parker  
15 keeps all of her money, and she (Holliday) is taking the opportunity while Parker is in jail to  
16 make money for herself.

17 On 2/12/13, Holliday speaks with Llamas, and says that she cannot talk because she  
18 (Holliday) is in the middle of a call. At the same time, Detective Rauback drove by Holliday's  
19 residence, and observed a male, later identified as Jonathan Miller, talking on his cell phone in  
20 the yard. Detective Rauback had observed Miller parked in the area earlier. I later contacted  
21 Miller, who confirmed that he had been at the residence to meet with Holliday. Miller, who  
22 recognized Holliday from a photo, told me that he had found Holliday's advertisement on  
23 backpage.com, and called her by phone to arrange for an erotic massage.

24 On 2/19/13, detectives posed as a potential customer, and sent Holliday a text message to  
25 the Phone asking if she was available for a call. Holliday, who had recently posted a new ad on  
26 backpage.com, corresponded with detectives to arrange a meeting. Detectives asked Holliday to  
27 meet at a local hotel. Holliday refused, stating that she does not do hotels. Holliday stated that she  
28 wanted to meet at a house. Holliday eventually stopped communicating with detectives.  
29 Following the failed meeting, Holliday continued to post new ads on backpage.com with the same  
30 phone number.



1 On 2/22/13, detectives applied for a search warrant for Holliday's backpage.com ads.  
2 Kitsap County Superior Court Judge Jennifer Forbes issued the warrant. Detectives obtained the  
3 customer, and billing information underlying the ads which lists both Parker and Holliday's  
4 phone numbers as well as various addresses associated with both subjects.

5 On 3/13/13, detectives applied for a search warrant for Holliday's phone records related to  
6 the number (360) 908-2471. Kitsap County Superior Court Judge Jennifer Forbes issued the  
7 warrant, which was served on AT&T on or around 3/14/13. As of this date, AT&T has not  
8 responded to the warrant.

9 On 4/3/13, Parker was placed into custody on an outstanding DOC warrant. Parker calls  
10 the Phone numerous times, and gives Holliday instructions on what she needs to do while he is in  
11 custody. Holliday discusses some of her clients, and money that she is making through  
12 prostitution and saving for Parker. Parkers tells Holliday, "I need you to do what the fuck I say to  
13 a T . . . Just do what you're supposed to do and stack." I know from my training and experience  
14 that "stack" means to save money. Parker talks about using the money to purchase a vehicle, and  
15 pay off debt that he owes for bail from a prior arrest. Parker also tells Holliday to take "Monster"  
16 from underneath the mattress, and put him in a duffle-bag in the shed. I know from conversations  
17 with Jaccet associates that Parker is in possession of a handgun, which was stolen and recently  
18 returned to him. I believe that "Monster" is a reference to the gun.

19 On 4/4/13 at approximately 1900, Detective Rauback advised me that he had observed  
20 Holliday and Alisia Crettol meeting with Travier Stevenson (AKA Little Jaccet). Stevenson is a  
21 gang member who uses, and sells Percocet pills. Detective Rauback observed Holliday meet  
22 briefly with Stevenson inside a Ford P/U truck WA license A37747M. The vehicle is registered to  
23 Stevenson's girlfriend, Janee Morgan. Holliday then returned to Crettol's vehicle, a blue Ford  
24 Escort WA license AEH1175. The meeting occurred in the area of the A&C Tavern on Perry  
25 Ave. Detective Rauback followed Crettol away from the area, and coordinated with patrol  
26 officers to stop the vehicle in the area of 16<sup>th</sup> St and Warren Ave.

27 I responded to the location of the stop, and stood by while Holliday and Crettol were  
28 detained in properly fitting, and double-locked restraints. I escorted Holliday to a patrol vehicle,  
29 and explained that I was investigating a possible drug transaction that had just occurred as well as  
30 other crimes related to prostitution. I read Holliday her Miranda rights from a department issued  
31

COMPLAINT FOR SEARCH WARRANT; Page 6



Russell D. Hauge, Prosecuting Attorney  
Adult Criminal and Administrative Divisions  
614 Division Street, MS-35  
Port Orchard, WA 98366-4681  
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1 card. Holliday acknowledged her rights, and agreed to speak with me.

2 I asked Holliday how many pills she had just gotten from Stevenson. Holliday was  
3 hesitant to answer, and mumbled something that I could not understand. I told Holliday that an  
4 undercover detective had observed the transaction, and asked her again how many pills she had  
5 gotten from Stevenson. Holliday told me that she had gotten one pill from him. I asked Holliday  
6 where she had put the pill. Holliday told me that she had put it inside her purse, which was sitting  
7 in the passenger seat of the vehicle. I asked Holliday for consent to retrieve the pill, and she  
8 agreed to same. It should be noted that Crettol also agreed to a search of the vehicle, and  
9 confirmed that the purse belonged to Holliday. I went to the vehicle, and withdrew the purse as  
10 well as the Phone from the passenger seat. Crettol was present, and confirmed that the Phone  
11 belonged to Holliday.

12 I returned with the items to Holliday, and took off her hand restraints. Holliday located  
13 the pill – small, round blue pill marked A 215 – inside her purse as well as a crumpled up piece of  
14 foil. Holliday handed both items over to me. I know from my training and experience that pill  
15 users will often smoke pills on foil as a means to bypass the chemical binders in the pills,  
16 resulting in an immediate and intense high. I showed Holliday the Phone located on the passenger  
17 seat. Holliday told me that it was her Phone, and identified the number as (360) 908-2471. I  
18 called the number, confirming same. I took custody of the Phone.

19 Because Holliday was cooperative throughout the interview and agreed to meet with  
20 detectives the following day to make a recorded statement regarding her criminal activities, she  
21 was released from custody. I placed the Phone into a secure evidence locker with the intent to  
22 either examine it with Holliday's consent the following day, or if necessary apply for a search  
23 warrant. I placed the pill, and foil into evidence in accordance with department procedure.  
24 Through a search of drugs.com, I identified the pill as 30 mg Oxycodone Hydrochloride, a  
25 schedule II narcotic.

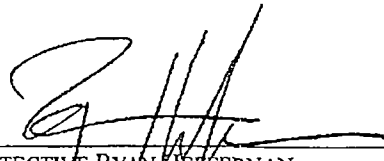
26 On 4/5/13, Holliday failed to show up for her interview. She has not contacted detectives,  
27 and her whereabouts are unknown.

28 Based upon the foregoing, there is probable cause to believe that evidence of human  
29 trafficking, promoting prostitution and/or prostitution will be found in Holliday's Phone. I  
30 respectfully request that the court issue a search warrant allowing law enforcement to search and  
31



1 seize the following information:

- 2 1. All information stored in the above-described cellular phone that can be extracted  
3 through a forensic examination, or other means including, but not limited to images,  
4 video, contacts, conspirator phone numbers/addresses, text messages, email messages,  
5 ledgers, financial transaction information, electronic documents, or any other stored  
6 information relating to human trafficking, promoting prostitution and/or  
7 prostitution.  
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DETECTIVE RYAN HEFFERNAN  
Bremerton Police Department

SUBSCRIBED AND SWORN to before me this 8 day of April, 2013.

  
JUDGE

Distribution—Original (Court Clerk); 1 copy (Prosecutor), 1 copy (Detective)

COMPLAINT FOR SEARCH WARRANT; Page 8



Russell D. Hauge, Prosecuting Attorney  
Adult Criminal and Administrative Divisions  
614 Division Street, MS-35  
Port Orchard, WA 98366-4681  
(360) 337-7174; Fax (360) 337-4949

Jan. H.

②

RECEIVED AND FILED

APR 23 2013

DAVID W. PETERSON  
KITSAP COUNTY CLERK

IN THE KITSAP COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

v.

BLACK MOTOROLA CELLULAR PHONE MODEL  
WX430, S/N 80DF5CC1 BEING STORED IN THE  
BREMERTON POLICE DEPARTMENT'S SECURE  
EVIDENCE ROOM AS ITEM # "JH" UNDER CASE  
NUMBER B13-001589 IN THE CITY OF  
BREMERTON, COUNTY OF KITSAP, STATE OF  
WASHINGTON,

Defendant.

No. 20130179

) COMPLAINT FOR SEARCH  
) WARRANT FOR FRUITS /  
) INSTRUMENTALITIES AND / OR  
) EVIDENCE OF THE CRIMES OF  
) RCW 9A.40.100 Human Trafficking 1<sup>st</sup>  
) Degree, RCW 9A.88.080 Promoting  
) Prostitution 1<sup>st</sup> Degree and/or RCW  
) 9A.88.030 Prostitution  
)  
)  
)  
)  
)

I, DETECTIVE RYAN HEFFERNAN, being first duly sworn upon oath, depose and say—

I am a duly appointed, qualified, and acting detective assigned to the Bremerton Police Department's Special Operations Group (SOG), and am charged with responsibility for the investigation of criminal activity occurring within Kitsap County. I have probable cause to believe, and do, in fact, believe, that in violation of the laws of the State of Washington with respect to RCW 9A.40.100 Human Trafficking 1<sup>st</sup> Degree, RCW 9A.88.080 Promoting Prostitution 1<sup>st</sup> Degree and/or RCW 9A.88.030 Prostitution, evidence and/or fruits and/or instrumentalities of said offense(s) are presently being kept, stored or possessed, and can be located and seized in the above-described cellular phone. My belief being based upon information acquired through personal interviews with witnesses and other law enforcement officers, review of reports and personal observations, said information being as further described herein—

I have been employed as a police officer by the City of Bremerton Police Department since July 2006. I have been a SOG Detective since September 2011. Prior to becoming a police officer, I served as an Assistant Attorney General for the State of Alaska. I received a BA with honors from Lafayette College (1998), and a JD from Rutgers School of Law (2002).

In July 2006, I attended 720 hours of training at the Washington State Criminal Justice Training Center in Burien, Washington. There, I received 14-hours of basic narcotics training.

COMPLAINT FOR SEARCH WARRANT; Page 1



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1 The training included instruction in drug and drug paraphernalia identification, as well as  
2 identifying impairment indicators associated with specific drug use. Instruction pertained to each  
3 of the seven categories of drugs: depressants, stimulants, hallucinogens, phencyclidine and  
4 narcotic analgesics.

5 In February of 2010 I attended an 80-hour basic drug enforcement class presented by the  
6 Drug Enforcement Administration. The training included, but was not limited to the following:  
7 pharmacology/drug ID, electronic narcotics' investigation, criminal interdiction, tactical entries  
8 and surveillance procedures

9 In September 2010 I attended a 24-hour methamphetamine investigations course  
10 presented by the Midwest Counterdrug Training Center. The training pertained to  
11 methamphetamine lab identification, and considerations for writing and executing  
12 methamphetamine related search warrants.

13 In November 2012, I attended 20 hours of training through the California Narcotics  
14 Officers Association (CNOA). The course topics included instruction on informant management,  
15 search and seizure issues, controlled buy and buy-bust operations, and undercover officer  
16 survival.

17 During my law enforcement career, I have participated in multiple narcotics  
18 investigations, which have resulted in arrests and seizures of various controlled substances  
19 including Marijuana, Cocaine, Methamphetamine, Black Tar Heroin, Ecstasy, Molly and  
20 Ketamine. Through these investigations and discussions with other experienced law enforcement  
21 agents, I have become familiar with the methods of packaging illegal narcotics, values of illegal  
22 narcotics, and terms associated with the manufacture, distribution and use of these substances. I  
23 have been an affiant for approximately 25 narcotics related search warrants, and participated in  
24 the execution of narcotics related search warrants that have resulted in arrests, and the discovery  
25 of illegal narcotics and items related to the use, packaging, distribution, and manufacturing of  
26 these substances.

27 In addition to narcotics related crimes, I have participated in investigations pertaining to  
28 prostitution. Through the course of these investigations, I have interviewed numerous prostitutes  
29 and pimps. I have found through my training and experience that these investigations often  
30 overlap with drug investigations. Specifically, I have learned that those individuals who promote  
31

COMPLAINT FOR SEARCH WARRANT; Page 2



Russell D. Hauge, Prosecuting Attorney  
Adult Criminal and Administrative Divisions  
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1 prostitution, commonly referred to as pimps, sometimes use drugs as a means to maintain control  
2 over prostitutes. It is common for those individuals who promote prostitution to pay prostitutes  
3 with drugs, and withhold drugs when they are dissatisfied with performance. Pimps will often  
4 utilize well established prostitutes to mentor new prostitutes, and facilitate their transition into the  
5 illicit activity. I also know that pimps and prostitutes will often utilize internet websites such as  
6 tncboard.com and backpage.com to advertise for prostitution. Pimps and prostitutes will often use  
7 their cellular phones to post ads on these websites, and communicate with clients and each other  
8 about their illicit activities.

9 I also know that people engaged in prostitution perform their services either in a fixed  
10 location that they designate, such as a motel room, or in a location determined by the client. This  
11 distinction is commonly referred to as an "in" or "out" call. Because of the inherent dangers  
12 associated with prostitution, pimps or their agents will often drive prostitutes to out calls and  
13 remain in the area during the encounter. This practice provides a degree of perceived protection  
14 for the prostitute, and allows the pimp to immediately be paid for the service. In addition to  
15 driving their prostitutes to specific locations for out calls, I know from my training and  
16 experience that pimps often use their vehicles as a private meeting locations to discuss their  
17 criminal business enterprises, which often extend beyond promoting prostitution.

18 This affidavit is made in support of an application for a search warrant for the cellular  
19 telephone described as follows:

20 **BLACK MOTOROLA CELLULAR PHONE MODEL WX430, S/N 80DF5CC1 BEING STORED IN**  
21 **THE BREMERTON POLICE DEPARTMENT'S SECURE EVIDENCE ROOM AS ITEM # "JH" UNDER**  
22 **CASE NUMBER B13-001589 IN THE CITY OF BREMERTON, COUNTY OF KITSAP, STATE OF**  
23 **WASHINGTON**

24 **PROBABLE CAUSE:** Over the course of the last several months, SOG detectives have  
25 investigated the criminal activities of Anthony Parker (AKA Baby Deuce). Parker has an  
26 extensive criminal history including seven felony convictions, eleven gross misdemeanor  
27 convictions, three misdemeanor convictions and four "classification unknown" convictions.  
28 Through the course of the investigation, Detectives learned that Parker's former girlfriend,  
29 Lorena Llamas (AKA Crazy), groomed women to work as prostitutes for Parker while she  
30 (Llamas) was incarcerated in the Kitsap County jail. Detectives identified one of these prostitutes  
31 as Johanna Holliday. Holliday has no felony convictions, and five gross misdemeanor convictions

COMPLAINT FOR SEARCH WARRANT; Page 3



Russell D. Hauge, Prosecuting Attorney  
Adult Criminal and Administrative Divisions  
614 Division Street, MS-35  
Port Orchard, WA 98366-4681  
(360) 337-7174; Fax (360) 337-4949

1 for the following: Theft 3<sup>rd</sup> degree, Minor in Possession/Consumption (three counts) and DUI. As  
2 set forth below, Holliday used her black Motorola cellular phone model WX430, S/N 80FD5CC1  
3 (hereinafter referred to as the "Phone") to communicate with Parker and clients about prostitution  
4 activities. There is probable cause to believe that evidence of human trafficking, promoting  
5 prostitution and/or prostitution will be found in the Phone, which is currently be stored in the  
6 Bremerton Police Department's secure evidence room.

7 Through a review of jail phone calls as well as contact with confidential informants and  
8 Jaccet associates, Detectives learned that Parker bailed Holliday out of jail in or around  
9 December 2012, and since that time has been involved in a dating relationship with Holliday and  
10 acted as her pimp. Detectives reviewed Holliday's ads for prostitution on backpage.com, which  
11 list phone numbers and addresses associated with Parker. Detectives performed surveillance, and  
12 confirmed that Holliday was living with Parker, and performing acts of prostitution at 1720 14<sup>th</sup>  
13 St in Bremerton Washington. The residence is believed to be owned by a family member of  
14 Llamas. Parker and Holliday have since moved to a residence at 703 S Summit Ave in  
15 Bremerton, Washington.

16 On 4/4/13, detectives observed Holliday participate in a drug transaction with Parker's  
17 associate, Travier Stevenson (AKA Little Jaccet). Detectives contacted Holliday on a traffic stop,  
18 and developed probable cause to arrest her for possession of a schedule II drug, Percocet.  
19 Holliday was in possession of a cellular phone, which detectives determined had been used to  
20 post advertisements for prostitution on backpage.com as well as to communicate with Parker and  
21 clients about prostitution. Detectives took of custody of the phone, and released Holliday.

22 On 4/8/13, detectives obtained a search warrant for Holliday's phone. Detectives  
23 examined the phone, which contained numerous text messages - many to Parker - pertaining to  
24 prostitution and drug activity. The phone also contained photos of Holliday that had been posted  
25 on backpage.com.

26 Upon her release, Holliday obtained a new phone and continued to post advertisements  
27 for prostitution on backpage.com listing the number (360) 551-9523. Detectives reviewed an  
28 advertisement Holliday posted on April 11th, 2013 at approximately 1828 hours. In that  
29 advertisement, Holliday posts six photographs of herself scantily-clad and in provocative poses.  
30 Her "screen name" on this advertisement is "Baby Doll."



1 Using a texting application with a fictitious name and phone number, detectives  
2 contacted Holliday at the new number, and inquired if she was available. Holliday told detectives  
3 that she was available, advising that the cost was \$200 per hour. Holliday also provided pricing  
4 information for two girls - "125 per person," for each half hour and "200 each" for an  
5 hour. Holliday said that she was available to meet at the Oyster Bay Inn, and asked detectives to  
6 "grab some condoms" and "lube. Detectives met with Holliday, and placed her into custody for  
7 possession of a schedule II drug, Percocet, and an outstanding warrant. At the time of her arrest,  
8 Holliday was in possession of the above-described Phone, which is the subject of this warrant.  
9 Detectives believe that this is the Phone that she was using to respond to the backpage.com ad.

10 After being provided with her Miranda rights, Holliday agreed to speak with detectives.  
11 Holliday provided a taped statement, detailing her relationship with Llamas and Parker. Holliday  
12 confirmed that Parker has acted as her pimp and boyfriend since he bailed her out of jail  
13 approximately four months ago. Since that time, Holliday has lived with Parker and maintained a  
14 dating relationship with him. Holliday told detectives that Parker helped place her ads on  
15 backpage.com, responded to customers and kept nearly all of the money she made through  
16 prostitution. Parker saw it all as his money, and gave it out to Holliday as he saw fit. Although  
17 Parker was initially nice to Holliday and courted her as his girlfriend, he later forced her to work  
18 as a prostitute seven days a week, and left her alone for days at a time in the house demanding  
19 that she not spend time with her friends and family. Holliday told detectives that she lost  
20 everything she ever had - friends, family, possessions etc. over the last several months at the  
21 hands of Parker.

22 Holliday told detectives that she was terrified to leave Parker, and was isolated with  
23 nowhere else to go. When Holliday disobeyed Parker, he verbally abused her and often beat her  
24 severely. Detectives have reviewed numerous jail phone calls in which Parker berates Holliday,  
25 screaming, "You need to follow my orders . . . what the fuck I tell you from right now until I get  
26 the fuck out of here in three days." Parker also cautions Holliday that that "[her] money better be  
27 right when I get out." Parker instructs Holliday to help with his bail saying, "Take that little bit of  
28 chump change that you fucking got and give it to Jaccet." I know that Jaccet is the moniker used  
29 by Tyler Williams, the leader of the gang. When Holliday starts to sob, Parker says, "I don't want  
30 to hear any crying bitch. . . stop crying nigga; I want someone to be making fucking moves."  
31



1 In addition to verbal abuse and threats, Holliday recounted numerous instances in which  
2 Parker assaulted, and imprisoned her in an effort to prevent her from leaving him. In one instance  
3 in or around the middle January, Parker became infuriated that Holliday had been with Anthony  
4 Flewellen, another Jaccet gang member and pimp. After scolding Holliday over the phone, Parker  
5 located Holliday at Flewellen's apartment at 901 Pleasant Ave in Bremerton. Parker came to the  
6 residence, and demanded to be let in. Jennifer Prerost, who was present at the residence with her  
7 (Prerost's) young daughter, allowed Parker inside the residence over Holliday's protests. Holliday  
8 huddled on the ground in Flewellen's locked bedroom. Parker came inside the residence, and  
9 broke down the bedroom door. Parker picked Holliday up off the ground by the hair, threw her  
10 against the wall and beat her face. Holliday was so terrified that she urinated in her pants. She  
11 later discovered large clumps of her hair missing. Detectives spoke to Prerost, who independently  
12 confirmed this account of events, telling detectives that it was one of the worst beatings she had  
13 ever witnessed. Detectives have also reviewed jail telephone calls, in which Parker tells Llamas  
14 that he beat Holliday for stealing from him. In addition, Detectives reviewed jail calls in which  
15 Holliday describes this portion of the assault in great detail to Llamas, who appeared more  
16 concerned about damage to the wall (Llamas mistakenly believed that the assault occurred in her  
17 residence).

18 Holliday told detectives that Parker took her from Flewellen's residence against her will  
19 to an unknown house on Houston Ave. Parker continued to beat Holliday about the head and face  
20 while in the car, which caused her to temporarily black out. Parker told Holliday that he planned  
21 to have his cousins tie her down, and torture her at the residence. Instead, Parker took Holliday  
22 inside and retrieved a towel for her to clean the blood from her face. Parker then drove Holliday  
23 back to 1720 14<sup>th</sup> St where he continued to abuse her for the next several hours.

24 At one point, Parker took a handgun and held it to Holliday's head asking if she was  
25 ready to die. Parker made Holliday look down the chamber of the gun, which he pointed directly  
26 at her face. Holliday broke down in tears as she told detectives that she was terrified for her life.  
27 Parker eventually put the gun away, but continued to torment Holliday for the next several days,  
28 periodically beating her and demanding that she continue to see clients despite having a black  
29 eye, significant bruising and limited function of one of her arms.

30 Although this was the worst beating that Parker inflicted on Holliday, it was far from the  
31



1 last. He continued to beat her, often for no reason, in an effort to maintain her as a prostitute  
2 under his control. Parker assaulted Holliday as recently as 4/12/13, crushing her cheek against the  
3 wall of their apartment with his fist. Parker applied such a degree of pressure that Holliday feared  
4 he would break bones in her face. Holliday said that Parker treated her like a piece of property,  
5 and made it clear that he could leave her at any time. He expected complete obedience from  
6 Holliday, saying that she needed to always be on point, and Holliday lived in constant fear of  
7 being assaulted, or possibly killed if she could not perform to his expectations.

8 Holliday spoke extensively about Parker's gun, which she described as a small handgun  
9 with a large light on the barrel. Holliday, who is not familiar with guns, noted that it was similar  
10 in appearance to a semi-automatic handgun carried by a detective. Holliday told detectives that  
11 Parker referred to the gun as "Monster", and usually kept it hidden under his mattress. Holliday  
12 confirmed that Parker took the gun to the couple's new residence on S Summit Ave. Holliday told  
13 detectives that Parker asked her to move the gun from under the mattress to a bag in the garage.  
14 Parker made the request in a phone call from the jail. Detectives reviewed the call which occurred  
15 on or around 4/3/13 in which Parker tells Holliday to move "Monster" from under the mattress to  
16 a duffel bag in the attached garage. Holliday told detectives that she followed Parkers  
17 instructions, and placed the gun in a blue Victoria Secret clothing bag in the garage.

18 On 4/12/13 Detectives applied for a telephonic search warrant for Parker's residence. The  
19 Honorable Kitsap County Judge Jennifer Forbes issued the warrant allowing law enforcement to  
20 enter the residence to effectuate the arrest of Parker, and search for the firearm.

21 On 4/13/13 at approximately 1200, detectives and patrol officers went to the residence to  
22 serve the warrant. Parker, who could be seen inside the residence, refused repeated demands to  
23 exit. Because of the severity of the crimes and safety concerns associated with the handgun, the  
24 SWAT team responded to the scene. Parker came out of the residence at approximately 1500, and  
25 was placed into custody. During a search of the residence, detectives located a confirmed stolen  
26 Taurus 45 caliber semi-automatic handgun S/N NBO91701 equipped with a light on the barrel in  
27 a clothing bag in the garage.


28 Detectives believe that evidence contained within the above-described Phone will further  
29 corroborate Holliday's criminal allegations. Holliday obtained the Phone after being placed into  
30 custody by detectives on 4/4/13, and used the Phone to communicate with clients about  
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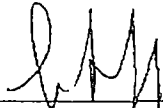
1 prostitution. Parker called Holliday on the Phone at the time of her arrest, and presumably sent  
2 Holliday text messages about prostitution, drugs and or other criminal activity as he had done on  
3 her previous phone. Based upon the foregoing, there is probable cause to believe that evidence of  
4 human trafficking 1<sup>st</sup> degree, promoting prostitution 1<sup>st</sup> degree and/or prostitution is currently  
5 being stored in the above-described Phone.

6 I respectfully request that the court issue a search warrant allowing law enforcement to  
7 search and seize the following information from the Phone:

- 8 1. All information stored in the above-described cellular phone that can be extracted  
9 through a forensic examination, or other means including, but not limited to images,  
10 video, contacts, conspirator phone numbers/addresses, text messages, email messages,  
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DETECTIVE RYAN HEFFERNAN  
Bremerton Police Department

SUBSCRIBED AND SWORN to before me this 23 day of April

  
JUDGE STEVEN DIXON

Distribution-Original (Court Clerk); 1 copy (Prosecutor), 1 copy (Detective)

COMPLAINT FOR SEARCH WARRANT; Page 8



Russell D. Hauge, Prosecuting Attorney  
Adult Criminal and Administrative Divisions  
614 Division Street, MS-35  
Port Orchard, WA 98366-4681  
(360) 337-7174; Fax (360) 337-4949

3

RECEIVED AND FILED  
APR 23 2013  
DAVID W. PETERSON  
KITSAP COUNTY CLERK

IN THE KITSAP COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

v.

Defendant.

No. 20130180

) COMPLAINT FOR SEARCH  
) WARRANT FOR FRUITS /  
) INSTRUMENTALITIES AND / OR  
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) Prostitution 1<sup>st</sup> Degree and/or RCW  
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SAMSUNG CELLULAR PHONE MODEL SPH-M580,  
S/N DEC268435460810632413 BEING STORED IN  
THE BREMERTON POLICE DEPARTMENT'S SECURE  
EVIDENCE ROOM AS ITEM # "TP" IN CASE NUMBER  
B13-001589 IN THE CITY OF BREMERTON,  
COUNTY OF KITSAP, STATE OF WASHINGTON,

I, DETECTIVE RYAN HEFFERNAN, being first duly sworn upon oath, depose and say—

I am a duly appointed, qualified, and acting detective assigned to the Bremerton Police Department's Special Operations Group (SOG), and am charged with responsibility for the investigation of criminal activity occurring within Kitsap County. I have probable cause to believe, and do, in fact, believe, that in violation of the laws of the State of Washington with respect to RCW 9A.40.100 Human Trafficking 1<sup>st</sup> Degree, RCW 9A.88.080 Promoting Prostitution 1<sup>st</sup> Degree and/or RCW 9A.88.030 Prostitution, evidence and/or fruits and/or instrumentalities of said offense(s) are presently being kept, stored or possessed, and can be located and seized in the above-described cellular phone. My belief being based upon information acquired through personal interviews with witnesses and other law enforcement officers, review of reports and personal observations, said information being as further described herein—

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In July 2006, I attended 720 hours of training at the Washington State Criminal Justice Training Center in Burien, Washington. There, I received 14-hours of basic narcotics training.



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1 The training included instruction in drug and drug paraphernalia identification, as well as  
2 identifying impairment indicators associated with specific drug use. Instruction pertained to each  
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4 narcotic analgesics.

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16 survival.

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18 investigations, which have resulted in arrests and seizures of various controlled substances  
19 including Marijuana, Cocaine, Methamphetamine, Black Tar Heroin, Ecstasy, Molly and  
20 Ketamine. Through these investigations and discussions with other experienced law enforcement  
21 agents, I have become familiar with the methods of packaging illegal narcotics, values of illegal  
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24 the execution of narcotics related search warrants that have resulted in arrests, and the discovery  
25 of illegal narcotics and items related to the use, packaging, distribution, and manufacturing of  
26 these substances.

27 In addition to narcotics related crimes, I have participated in investigations pertaining to  
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29 and pimps. I have found through my training and experience that these investigations often  
30 overlap with drug investigations. Specifically, I have learned that those individuals who promote  
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COMPLAINT FOR SEARCH WARRANT; Page 2



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1 prostitution, commonly referred to as pimps, sometimes use drugs as a means to maintain control  
2 over prostitutes. It is common for those individuals who promote prostitution to pay prostitutes  
3 with drugs, and withhold drugs when they are dissatisfied with performance. Pimps will often  
4 utilize well established prostitutes to mentor new prostitutes, and facilitate their transition into the  
5 illicit activity. I also know that pimps and prostitutes will often utilize internet websites such as  
6 tnaboard.com and backpage.com to advertise for prostitution. Pimps and prostitutes will often use  
7 their cellular phones to post ads on these websites, and communicate with clients and each other  
8 about their illicit activities.

9 I also know that people engaged in prostitution perform their services either in a fixed  
10 location that they designate, such as a motel room, or in a location determined by the client. This  
11 distinction is commonly referred to as an "in" or "out" call. Because of the inherent dangers  
12 associated with prostitution, pimps or their agents will often drive prostitutes to out calls and  
13 remain in the area during the encounter. This practice provides a degree of perceived protection  
14 for the prostitute, and allows the pimp to immediately be paid for the service. In addition to  
15 driving their prostitutes to specific locations for out calls, I know from my training and  
16 experience that pimps often use their vehicles as a private meeting locations to discuss their  
17 criminal business enterprises, which often extend beyond promoting prostitution.

18 This affidavit is made in support of an application for a search warrant for the cellular  
19 telephone described as follows:

20 SAMSUNG CELLULAR PHONE MODEL SPH-M580, S/N DEC268435460810632413 BEING  
21 STORED IN THE BREMERTON POLICE DEPARTMENT'S SECURE EVIDENCE ROOM AS ITEM #  
22 "IP" IN CASE NUMBER B13-001589 IN THE CITY OF BREMERTON, COUNTY OF KITSAP,  
STATE OF WASHINGTON

23 PROBABLE CAUSE: Over the course of the last several months, SOG detectives have  
24 investigated the criminal activities of Anthony Parker (AKA Baby Deuce). Parker has an  
25 extensive criminal history including seven felony convictions, eleven gross misdemeanor  
26 convictions, three misdemeanor convictions and four "classification unknown" convictions.  
27 Through the course of the investigation, Detectives learned that Parker's former girlfriend,  
28 Lorena Llamas (AKA Crazy), groomed women to work as prostitutes for Parker while she  
29 (Llamas) was incarcerated in the Kitsap County jail. Detectives identified one of these prostitutes  
30 as Johanna Holliday. Holliday has no felony convictions, and five gross misdemeanor convictions  
31

COMPLAINT FOR SEARCH WARRANT; Page 3



Russell D. Hauge, Prosecuting Attorney  
Adult Criminal and Administrative Divisions  
614 Division Street, MS-35  
Port Orchard, WA 98366-4681  
(360) 337-7174; Fax (360) 337-4949

1 for the following: Theft 3<sup>rd</sup> degree, Minor in Possession/Consumption (three counts) and DUI. As  
2 set forth below, Parker used his Samsung Cellular phone model SPH-M580, S/N  
3 DEC268435460810632413 (hereinafter referred to as the "Phone") to communicate with  
4 Holliday, Llamas and clients about prostitution activities. There is probable cause to believe that  
5 evidence of human trafficking, promoting prostitution and/or prostitution will be found in the  
6 Phone, which is currently be stored in the Bremerton Police Department's secure evidence room.

7 Through a review of jail phone calls as well as contact with confidential informants and  
8 Jaccet associates, Detectives learned that Parker bailed Holliday out of jail in or around  
9 December 2012, and since that time has been involved in a dating relationship with Holliday and  
10 acted as her pimp. Detectives reviewed Holliday's ads for prostitution on backpage.com, which  
11 list phone numbers and addresses associated with Parker. Detectives performed surveillance, and  
12 confirmed that Holliday was living with Parker, and performing acts of prostitution at 1720 14<sup>th</sup>  
13 St in Bremerton Washington. The residence is believed to be owned by a family member of  
14 Llamas. Parker and Holliday have since moved to a residence at 703 S Summit Ave in  
15 Bremerton, Washington.

16 On 4/4/13, detectives observed Holliday participate in a drug transaction with Parker's  
17 associate, Travier Stevenson (AKA Little Jaccet). Detectives contacted Holliday on a traffic stop,  
18 and developed probable cause to arrest her for possession of a schedule II drug, Percocet.  
19 Holliday was in possession of a cellular phone, which detectives determined had been used to  
20 post advertisements for prostitution on backpage.com as well as to communicate with Parker and  
21 clients about prostitution. Detectives took of custody of the phone, and released Holliday.

22 On 4/8/13, detectives obtained a search warrant for Holliday's phone. Detectives  
23 examined the phone, which contained numerous text messages - many to Parker - pertaining to  
24 prostitution and drug activity. The phone also contained photos of Holliday that had been posted  
25 on backpage.com.

26 Upon her release, Holliday obtained a new phone and continued to post advertisements  
27 for prostitution on backpage.com listing the number (360) 551-9523. Detectives reviewed an  
28 advertisement Holliday posted on April 11th, 2013 at approximately 1828 hours. In that  
29 advertisement, Holliday posts six photographs of herself scantily-clad and in provocative poses.  
30 Her "screen name" on this advertisement is "Baby Doll."

31 COMPLAINT FOR SEARCH WARRANT; Page 4



Russell D. Hange, Prosecuting Attorney  
Adult Criminal and Administrative Divisions  
614 Division Street, MS-35  
Port Orchard, WA 98366-4681  
(360) 337-7174; Fax (360) 337-4949

1 Using a texting application with a fictitious name and phone number, detectives  
2 contacted Holliday at the new number, and inquired if she was available. Holliday told detectives  
3 that she was available, advising that the cost was \$200 per hour. Holliday also provided pricing  
4 information for two girls - "125 per person," for each half hour and "200 each" for an  
5 hour. Holliday said that she was available to meet at the Oyster Bay Inn, and asked detectives to  
6 "grab some condoms" and "lube. Detectives met with Holliday, and placed her into custody for  
7 possession of a schedule II drug, Percocet, and an outstanding warrant. At the time of her arrest,  
8 Holliday was in possession of a cellular phone, and received a call from Parker. Detectives  
9 believe that Parker called Holliday from the above-described Phone.

10 After being provided with her Miranda rights, Holliday agreed to speak with detectives.  
11 Holliday provided a taped statement, detailing her relationship with Llamas and Parker. Holliday  
12 confirmed that Parker has acted as her pimp and boyfriend since he bailed her out of jail  
13 approximately four months ago. Since that time, Holliday has lived with Parker and maintained a  
14 dating relationship with him. Holliday told detectives that Parker helped place her ads on  
15 backpage.com, responded to customers and kept nearly all of the money she made through  
16 prostitution. Parker saw it all as his money, and gave it out to Holliday as he saw fit. Although  
17 Parker was initially nice to Holliday and courted her as his girlfriend, he later forced her to work  
18 as a prostitute seven days a week, and left her alone for days at a time in the house demanding  
19 that she not spend time with her friends and family. Holliday told detectives that she lost  
20 everything she ever had - friends, family, possessions etc. over the last several months at the  
21 hands of Parker.

22 Holliday told detectives that she was terrified to leave Parker, and was isolated with  
23 nowhere else to go. When Holliday disobeyed Parker, he verbally abused her and often beat her  
24 severely. Detectives have reviewed numerous jail phone calls in which Parker berates Holliday,  
25 screaming, "You need to follow my orders . . . what the fuck I tell you from right now until I get  
26 the fuck out of here in three days." Parker also cautions Holliday that that "[her] money better be  
27 right when I get out." Parker instructs Holliday to help with his bail saying, "Take that little bit of  
28 chump change that you fucking got and give it to Jaccet." I know that Jaccet is the moniker used  
29 by Tyler Williams, the leader of the gang. When Holliday starts to sob, Parker says, "I don't want  
30 to hear any crying bitch. . . . stop crying nigga; I want someone to be making fucking moves."



1 In addition to verbal abuse and threats, Holliday recounted numerous instances in which  
2 Parker assaulted, and imprisoned her in an effort to prevent her from leaving him. In one instance  
3 in or around the middle January, Parker became infuriated that Holliday had been with Anthony  
4 Flewellen, another Jaccet gang member and pimp. After scolding Holliday over the phone, Parker  
5 located Holliday at Flewellen's apartment at 901 Pleasant Ave in Bremerton. Parker came to the  
6 residence, and demanded to be let in. Jennifer Prerost, who was present at the residence with her  
7 (Prerost's) young daughter, allowed Parker inside the residence over Holliday's protests. Holliday  
8 huddled on the ground in Flewellen's locked bedroom. Parker came inside the residence, and  
9 broke down the bedroom door. Parker picked Holliday up off the ground by the hair, threw her  
10 against the wall and beat her face. Holliday was so terrified that she urinated in her pants. She  
11 later discovered large clumps of her hair missing. Detectives spoke to Prerost, who independently  
12 confirmed this account of events, telling detectives that it was one of the worst beatings she had  
13 ever witnessed. Detectives have also reviewed jail telephone calls, in which Parker tells Llamas  
14 that he beat Holliday for stealing from him. In addition, Detectives reviewed jail calls in which  
15 Holliday describes this portion of the assault in great detail to Llamas, who appeared more  
16 concerned about damage to the wall (Llamas mistakenly believed that the assault occurred in her  
17 residence).

18 Holliday told detectives that Parker took her from Flewellen's residence against her will  
19 to an unknown house on Houston Ave. Parker continued to beat Holliday about the head and face  
20 while in the car, which caused her to temporarily black out. Parker told Holliday that he planned  
21 to have his cousins tie her down, and torture her at the residence. Instead, Parker took Holliday  
22 inside and retrieved a towel for her to clean the blood from her face. Parker then drove Holliday  
23 back to 1720 14<sup>th</sup> St where he continued to abuse her for the next several hours.

24 At one point, Parker took a handgun and held it to Holliday's head asking if she was  
25 ready to die. Parker made Holliday look down the chamber of the gun, which he pointed directly  
26 at her face. Holliday broke down in tears as she told detectives that she was terrified for her life.  
27 Parker eventually put the gun away, but continued to torment Holliday for the next several days,  
28 periodically beating her and demanding that she continue to see clients despite having a black  
29 eye, significant bruising and limited function of one of her arms.

30 Although this was the worst beating that Parker inflicted on Holliday, it was far from the  
31



1 last. He continued to beat her, often for no reason, in an effort to maintain her as a prostitute  
2 under his control. Parker assaulted Holliday as recently as 4/12/13, crushing her cheek against the  
3 wall of their apartment with his fist. Parker applied such a degree of pressure that Holliday feared  
4 he would break bones in her face. Holliday said that Parker treated her like a piece of property,  
5 and made it clear that he could leave her at any time. He expected complete obedience from  
6 Holliday, saying that she needed to always be on point, and Holliday lived in constant fear of  
7 being assaulted, or possibly killed if she could not perform to his expectations.

8 Holliday spoke extensively about Parker's gun, which she described as a small handgun  
9 with a large light on the barrel. Holliday, who is not familiar with guns, noted that it was similar  
10 in appearance to a semi-automatic handgun carried by a detective. Holliday told detectives that  
11 Parker referred to the gun as "Monster", and usually kept it hidden under his mattress. Holliday  
12 confirmed that Parker took the gun to the couple's new residence on S Summit Ave. Holliday told  
13 detectives that Parker asked her to move the gun from under the mattress to a bag in the garage.  
14 Parker made the request in a phone call from the jail. Detectives reviewed the call which occurred  
15 on or around 4/3/13 in which Parker tells Holliday to move "Monster" from under the mattress to  
16 a duffel bag in the attached garage. Holliday told detectives that she followed Parkers  
17 instructions, and placed the gun in a blue Victoria Secret clothing bag in the garage.

18 On 4/12/13 Detectives applied for a telephonic search warrant for Parker's residence. The  
19 Honorable Kitsap County Judge Jennifer Forbes issued the warrant allowing law enforcement to  
20 enter the residence to effectuate the arrest of Parker, and search for the firearm.

21 On 4/13/13 at approximately 1200, detectives and patrol officers went to the residence to  
22 serve the warrant. Parker, who could be seen inside the residence, refused repeated demands to  
23 exit. Because of the severity of the crimes and safety concerns associated with the handgun, the  
24 SWAT team responded to the scene. Parker came out of the residence at approximately 1500, and  
25 was placed into custody. During a search of the residence, detectives located a confirmed stolen  
26 Taurus 45 caliber semi-automatic handgun S/N NBO91701 equipped with a light on the barrel in  
27 a clothing bag in the garage.


28 At the time of his arrest, Parker was holding the above-described cellular Phone. The  
29 Phone was on, and connected to "Lil Jac" or "Lil Jaccet," which I know to be Travier Stevenson.  
30 Detectives believe that Parker also used the phone to call Holliday while she was being placed  
31



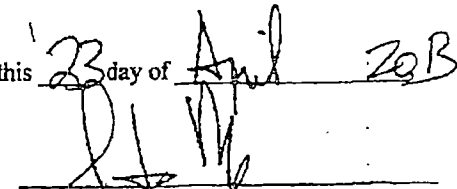
1 into custody hours earlier. In addition, Detectives believe that Parker used the Phone to  
2 communicate with Llamas, advertise for prostitution on backpage.com, respond to customers on  
3 Holliday's behalf and/or otherwise further his criminal activities. Based on the foregoing, there is  
4 probable cause to believe that evidence of human trafficking 1<sup>st</sup> degree, promoting prostitution 1<sup>st</sup>  
5 degree and/or prostitution is currently being stored in the Phone.

6 I respectfully request that the court issue a search warrant allowing law enforcement to  
7 search and seize the following information from the Phone:

- 8 1. All information stored in the above-described cellular phone that can be extracted  
9 through a forensic examination, or other means including, but not limited to images,  
10 video, contacts, conspirator phone numbers/addresses, text messages, email messages,  
11 ledgers, financial transaction information, electronic documents, or any other stored  
12 information relating to human trafficking, promoting prostitution and/or prostitution.

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DETECTIVE RYAN SHEFFERNAN  
Bremerton Police Department

SUBSCRIBED AND SWORN to before me this

23 day of April 2013  
  
JUDGE STEVEN DIXON

Distribution--Original (Court Clerk); 1 copy (Prosecutor), 1 copy (Detective)



1 A. I was in the area of a known establishment that we are aware  
2 that many of these people involved with this investigation  
3 and other drug investigations frequent, when I observed  
4 Ms. Holliday with another male in a vehicle. And what I  
5 observed was Ms. Holliday driving in this vehicle with this  
6 male, and there was another female following close behind  
7 them, who I also recognized, in another vehicle. They  
8 stopped on a side road, which, again, was not a normal place  
9 for them to stop. Ms. Holliday exited the vehicle, got into  
10 the vehicle with the female, and at that point, it was  
11 apparent to me that it was a short visit, which is typically  
12 something that is indicative of a drug deal.

13 Q. Did you make contact with her?

14 A. We did.

15 Q. And how did that come about?

16 A. I immediately, like I said before, I had Detective Heffernan  
17 on the phone, was letting him know what was going on, we  
18 arranged for a patrol officer to make a stop on the vehicle  
19 driven by the other female, and we contacted both  
20 Ms. Holliday and the female at that time.

21 Q. And who was with you at that point?

22 A. With me? I was by myself in my own vehicle, Detective  
23 Heffernan was in his vehicle, and I believe there was a few  
24 other patrol officers that assisted us in making the traffic  
25 stop.



1 Q. Did you arrest Ms. Holliday at that point?

2 A. I believe we detained Ms. Holliday, but she was not taken  
3 into custody, no.

4 Q. And when you say "detained," what do you mean by that?

5 A. By detained, I believe she may have been put in handcuffs  
6 and she was not free to leave from the scene. The same  
7 thing with the driver of the vehicle. They were not under  
8 arrest, but they were just being held there for questioning.

9 Q. Okay. And when you did make contact with her, did you see  
10 any narcotics?

11 A. I didn't contact Ms. Holliday. I contacted the driver of  
12 the vehicle.

13 Q. Okay. Did you have any discussion with Ms. Holliday?

14 A. I believe Detective Heffernan spoke with Ms. Holliday at  
15 that incident.

16 Q. Do you recall whether any evidence was collected --

17 A. Yes.

18 Q. -- from Ms. Holliday?

19 A. From what I recall, there was, I believe, drug paraphernalia  
20 and perhaps one Percocet pill was recovered from  
21 Ms. Holliday.

22 Q. What about a cell phone?

23 A. Yes, her cell phone as well.

24 Q. Was that something you recovered or Detective Heffernan?

25 A. Those items were all recovered by Detective Heffernan.

1 Q. Did you end up taking Ms. Holliday to the station or booking  
2 her on that day?

3 A. No. We did the interview. I interviewed the other female.  
4 Detective Heffernan interviewed Ms. Holliday at the scene of  
5 the traffic stop.

6 Q. And what was the reason why you didn't book her?

7 A. I believe we wanted her -- we were looking for cooperation  
8 and I believe we had a -- she made an agreement with  
9 Detective Heffernan to meet up the following day for a more  
10 thorough interview.

11 Q. And did she show up that following day?

12 A. She did not.

13 Q. Now, pointing you to a couple weeks later, did you set up  
14 another way to contact Ms. Holliday?

15 A. We did. About a week or so later, we, Detective Sergeant  
16 Plumb and I, decided to -- We were aware that Ms. Holliday  
17 had created a posting and we set up a sting operation in a  
18 way to contact Ms. Holliday.

19 Q. And where did that contact come about?

20 A. That contact occurred at the Oyster Bay Inn on Kitsap Way in  
21 Bremerton.

22 Q. And can you just describe your involvement?

23 A. My involvement on that, I was -- At the time, I was  
24 conducting surveillance of the South Summit house that I  
25 mentioned before. We believed that Ms. Holliday was perhaps

1 put on that I am Anthony Parker and that I am a pimp and my  
2 occupation is sell a hoe, could I not?

3 A. Yes, you could.

4 Q. And there would be no one stopping me from doing that, would  
5 there?

6 A. No, I suppose not.

7 Q. So how do we know that any of this information on Facebook  
8 is accurate?

9 A. Well, again, I'm not saying -- There's no indication that  
10 what's posted on here is accurate, but I do think that you  
11 could link it to Mr. Parker, because the information isn't  
12 contained only on the Facebook page. And some of the things  
13 that are mentioned in it, they correlate with what was said  
14 in the phone calls or what was on his phone, for instance.  
15 I mean, somebody could create a page, but then to have that  
16 on the actual person's phone, that would be very unlikely.

17 Q. Did you subpoena his e-mail?

18 A. I did not.

19 Q. Okay. Do you know if Mr. Parker had access to his e-mail  
20 other than through that phone there?

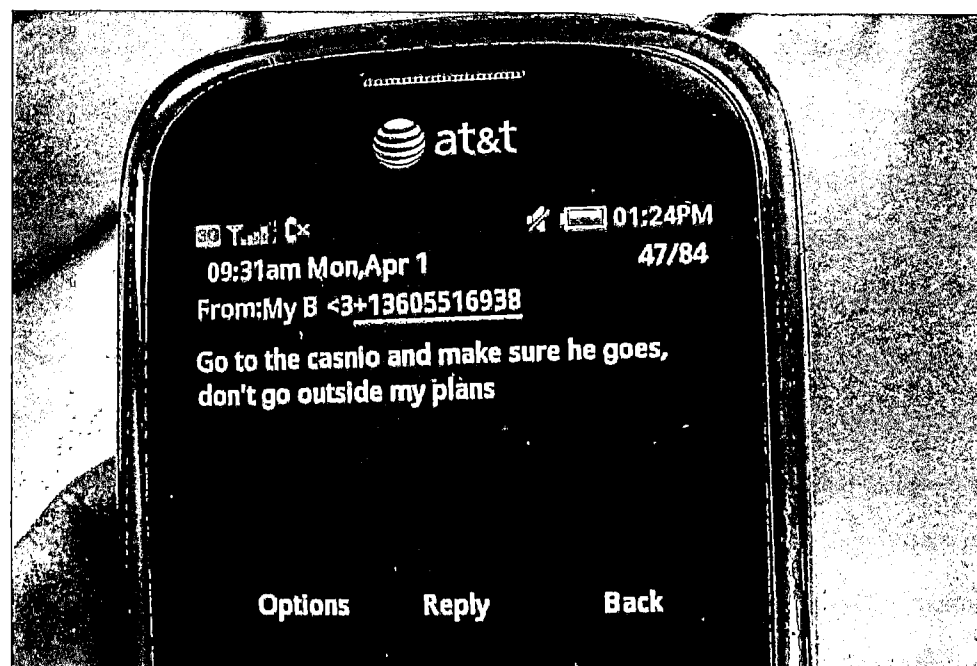
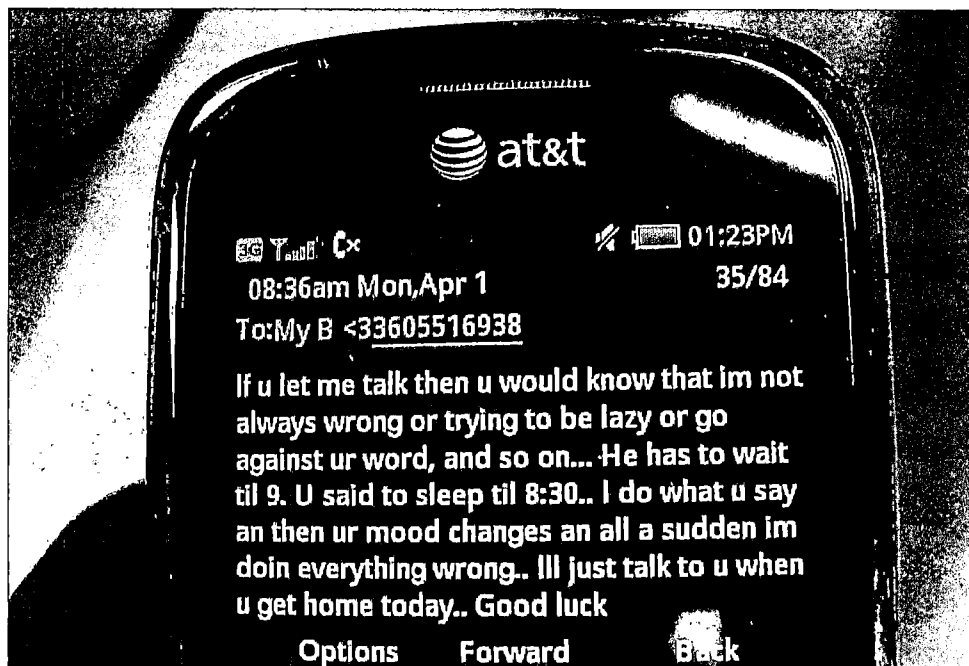
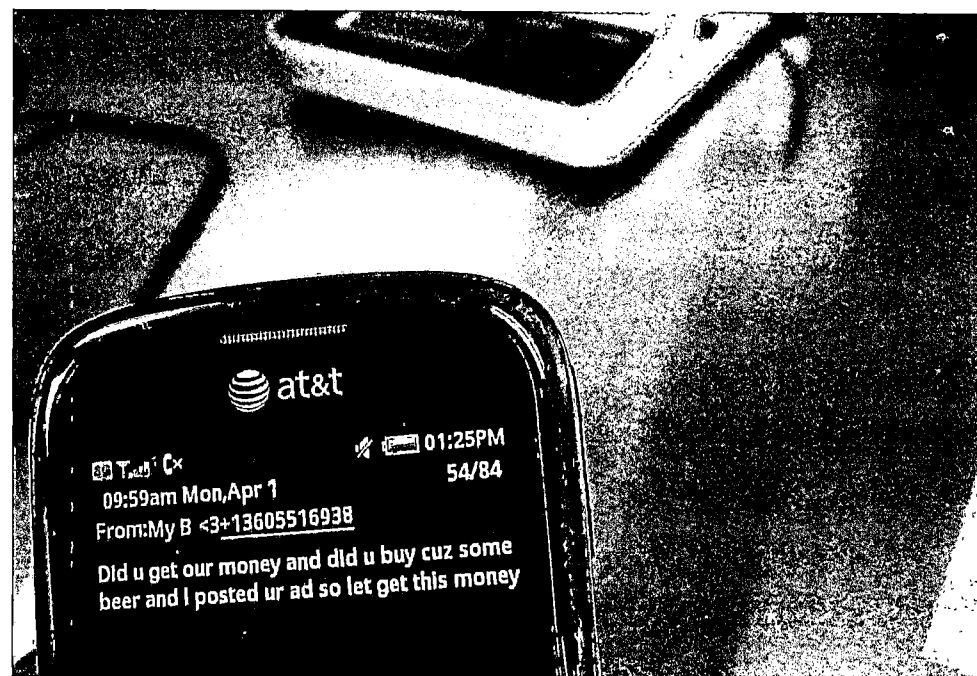
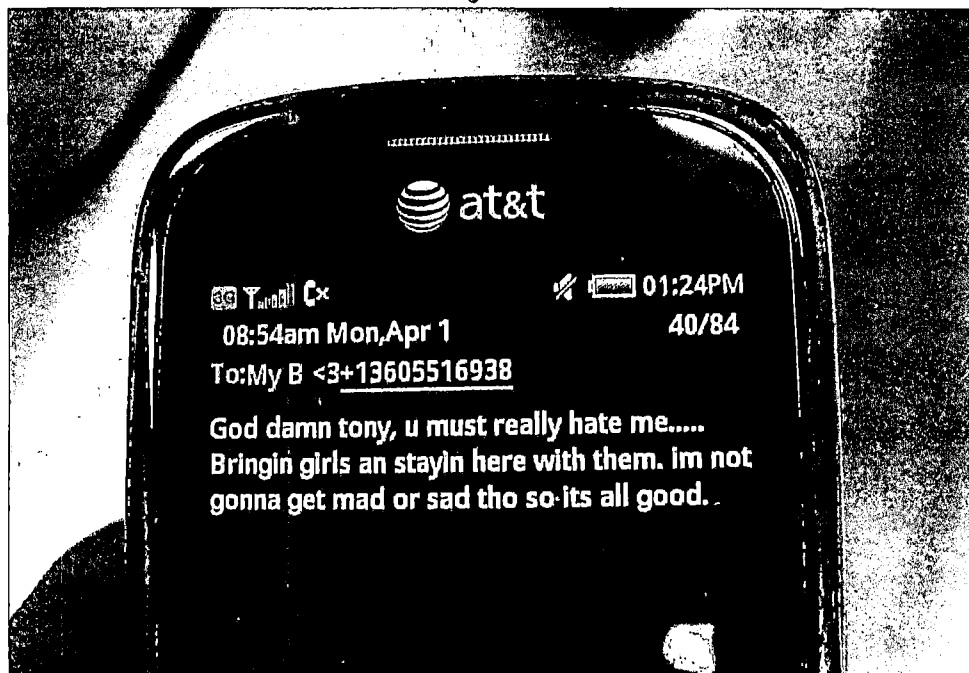
21 A. Other than through the phone, I don't know.

22 Q. Okay. Do you know if Mr. Parker was the only person who had  
23 access to this phone here?

24 A. I don't know for certain. Ms. Holliday may have had access  
25 at that point to the phone.

APPENDIX #4 PRIVATE INFORMATION

# Messages To And from PARKER



Texts To PARKER ↓

MOTOROLA

To

Message 10/163

To: My B <3  
Tell me wtf to do...

Sent:  
Thu, Apr 11, 2:53 am

Options

MOTOROLA

To

7246028598

724-602-8598

Is that your special

Me  
80 quleky 125 hhr 200 hr (negotiable)

724-602-8598

Has my name is Chris and was interested in your post on ba  
Options Quick Reply

To

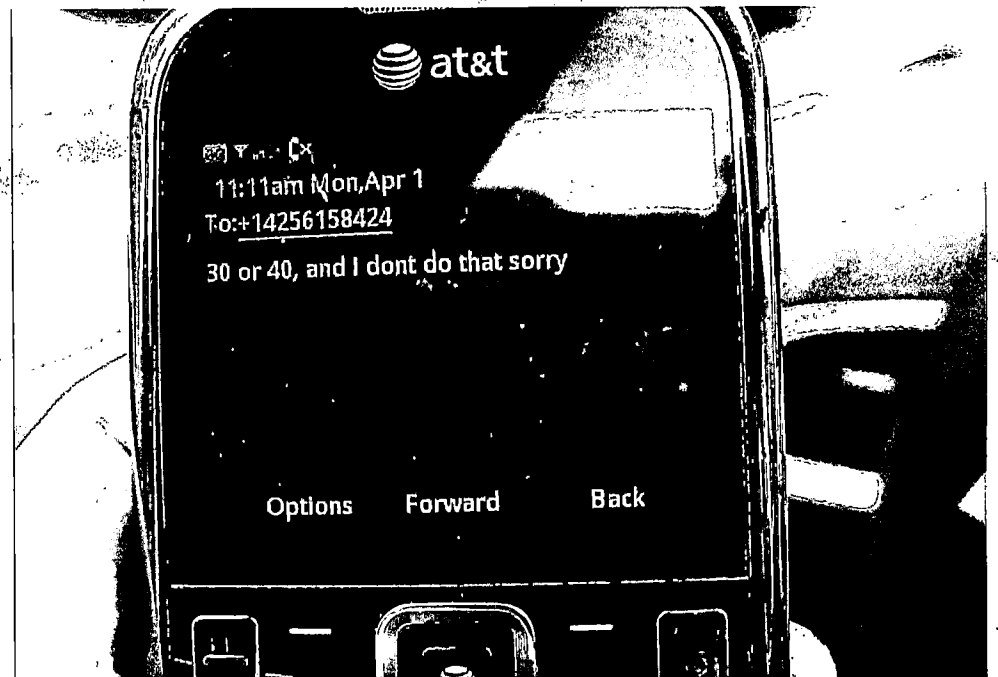
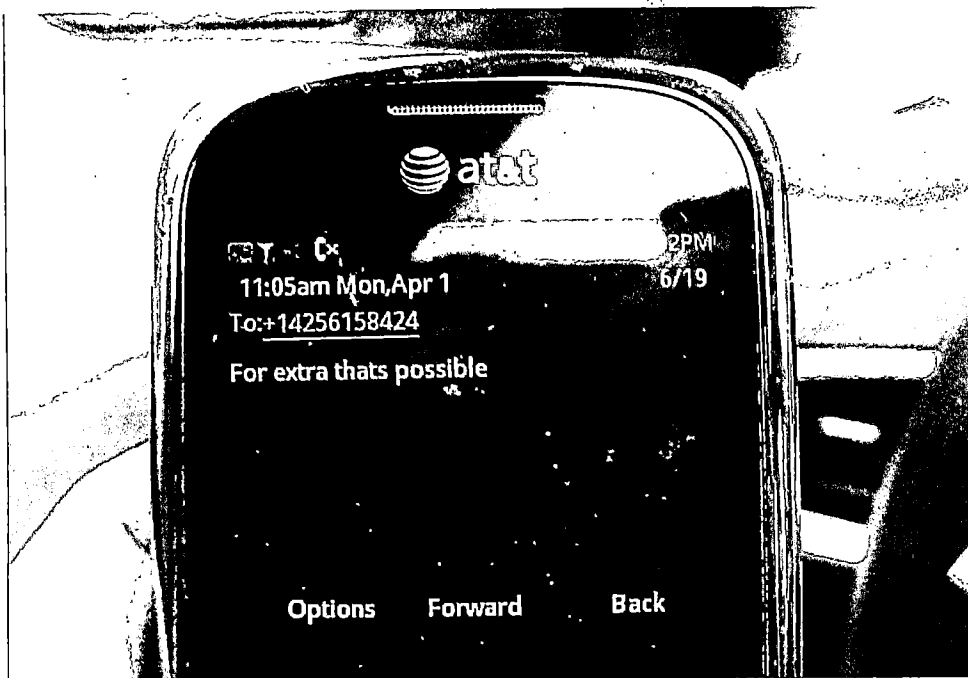
Message 10/163

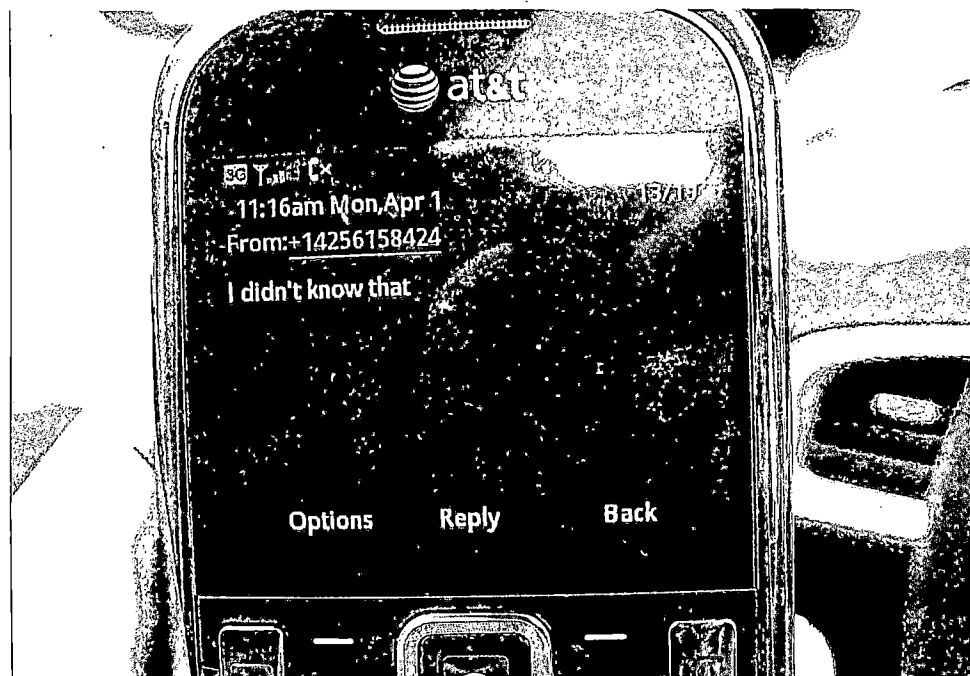
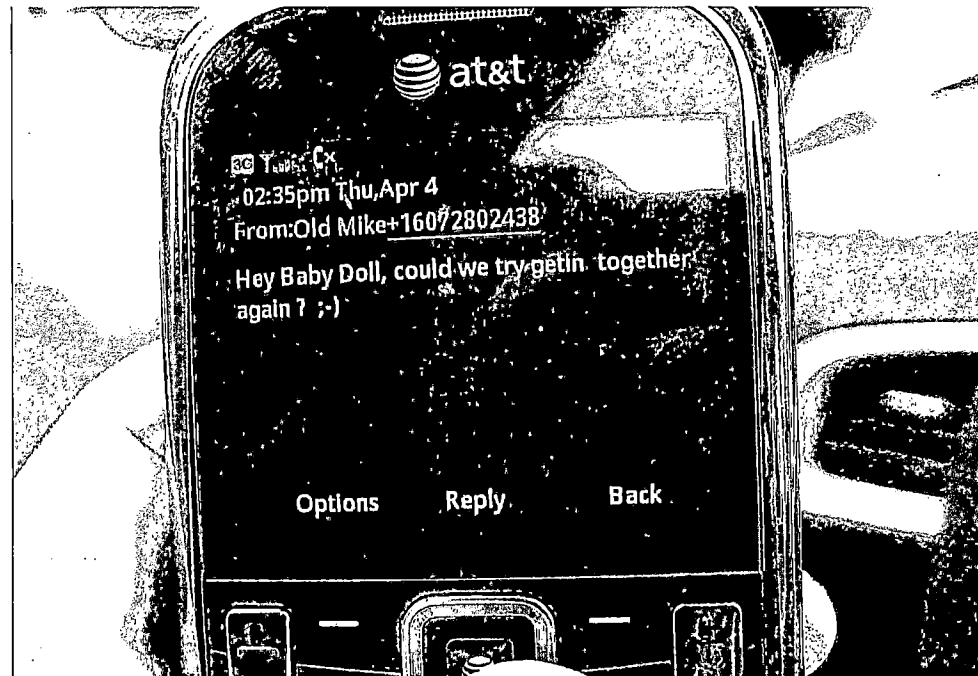
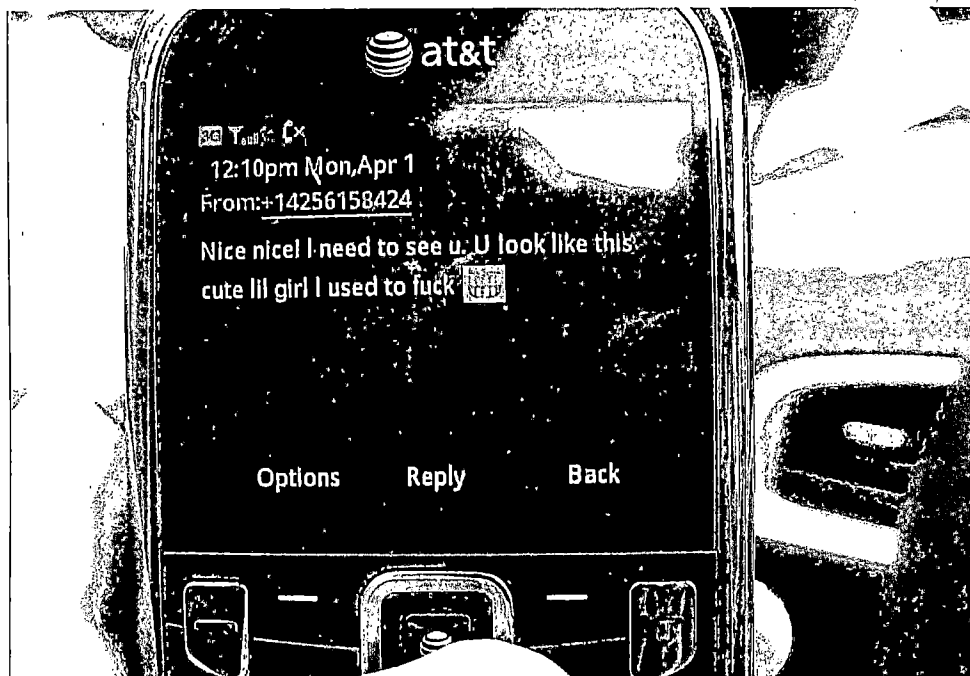
To: My B <3  
Bd?? I have 80 comin within the hhr & tryna get  
1 or 2 more calls before i come home! Give me  
til like.. 1:30 or 2? its sloooww

Sent:  
Thu, Apr 11, 12:01 am

Options

↑







◀ kpage.com: Move Ad to Tr ▶

Your ad has successfully been moved  
to the top of the listings!

To EDIT/DELETE your posting, click the  
following link:

[http://tac.backpage.com/post/  
11894445/56ec0a34](http://tac.backpage.com/post/11894445/56ec0a34)

If nothing happens when you click this  
link, please copy the link above and  
paste it into your web browser.

DON'T DELETE THIS EMAIL -- you might  
need this link to enhance, edit or  
delete your post in the future.

6:14 PM

le • h • try • with • a

Protection is a must with b/jfs

Sent via my LG Marquee from Boost Mobile

"Mr. John"

<[navyjohn1992@hotmail.com](mailto:navyjohn1992@hotmail.com)> wrote:

>And what are your rules with condoms?

-----Original Message-----

PARKER EMAIL

Account being use

>From: [Tpabc77@gmail.com](mailto:Tpabc77@gmail.com) to speak through

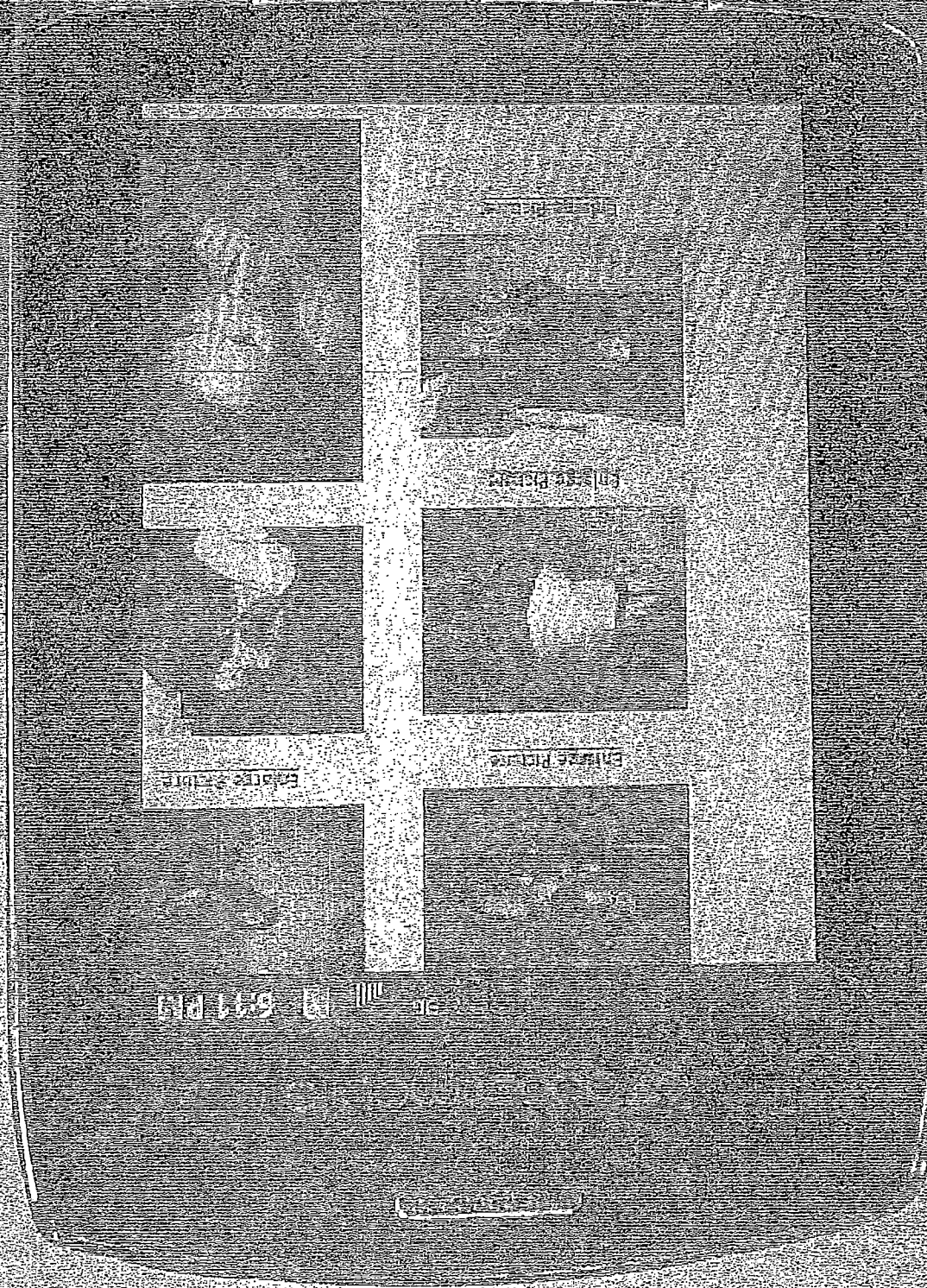
>Sent: 19 Jan 2013 02:18:55 GMT text

>To: Mr. John

>Subject: Re: backpage response: "•• | | t

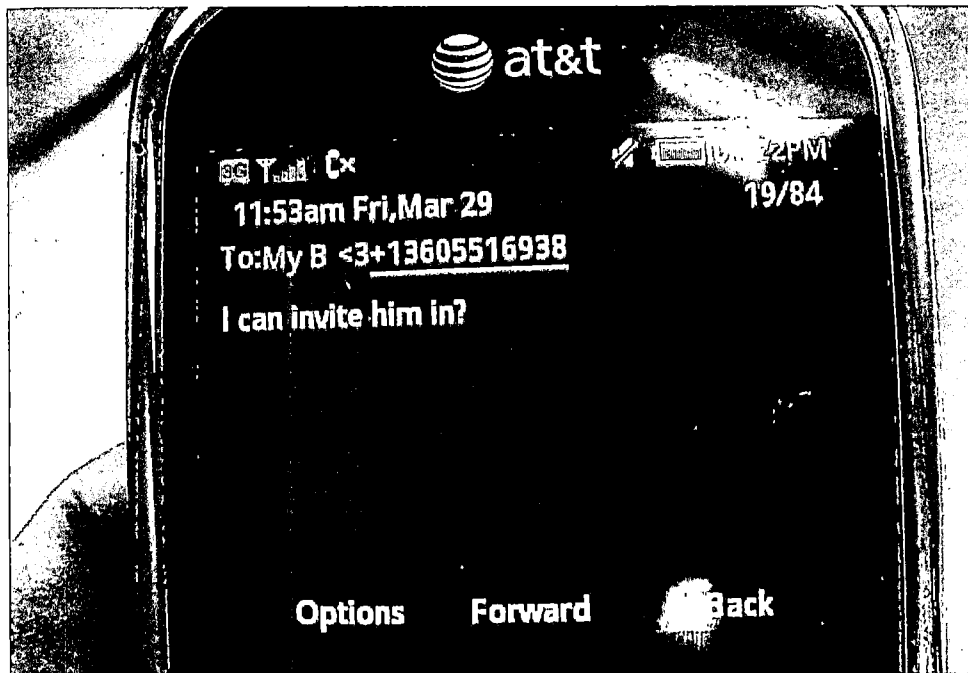
le • h • try • with • a • b • d y •...

Picture of Holiday on PARKER'S  
Email Account with BackPage

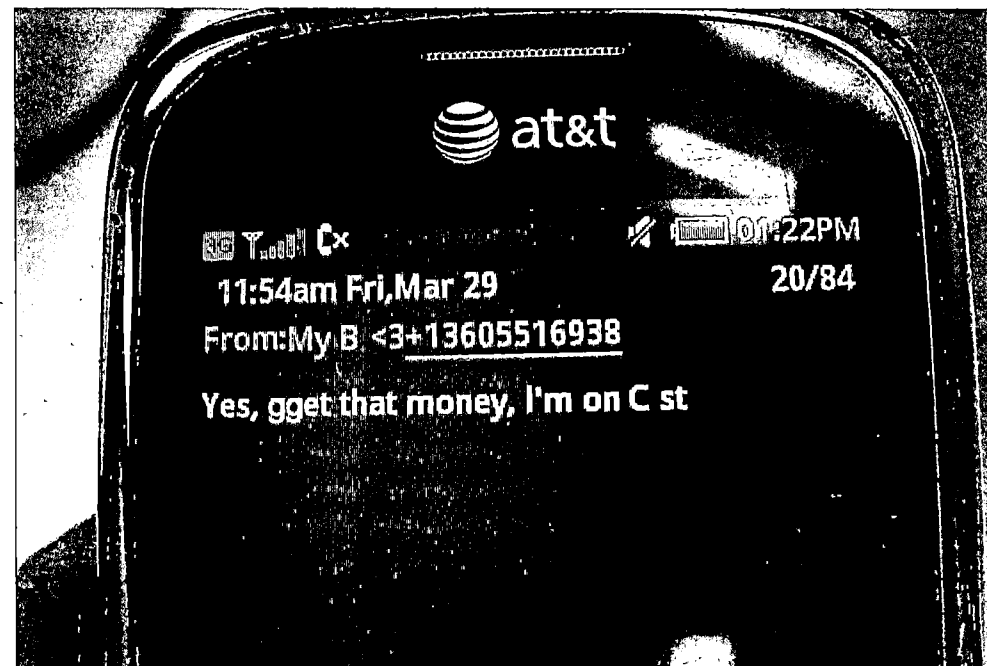
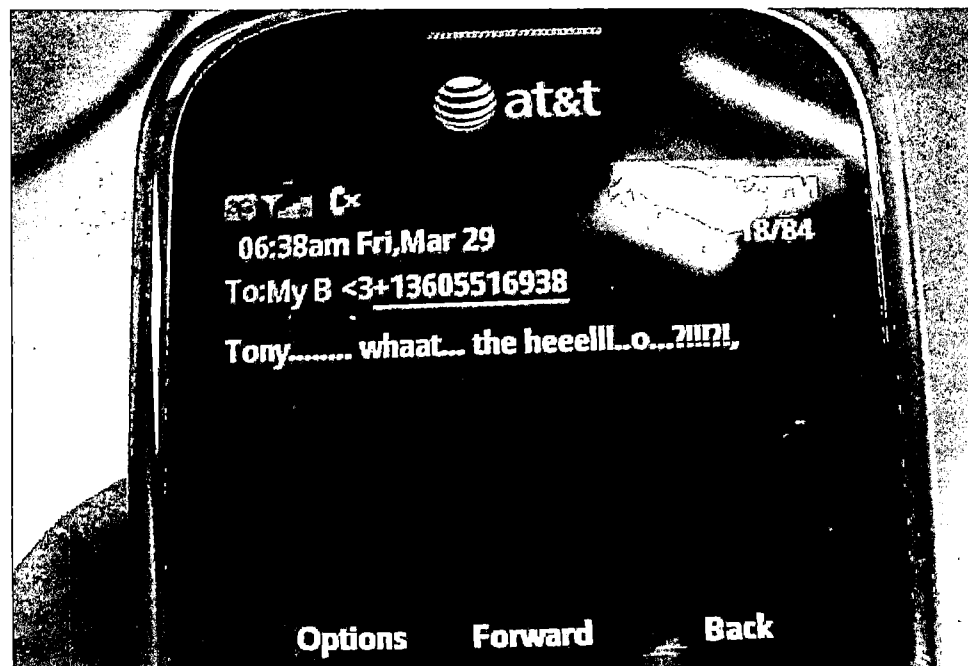




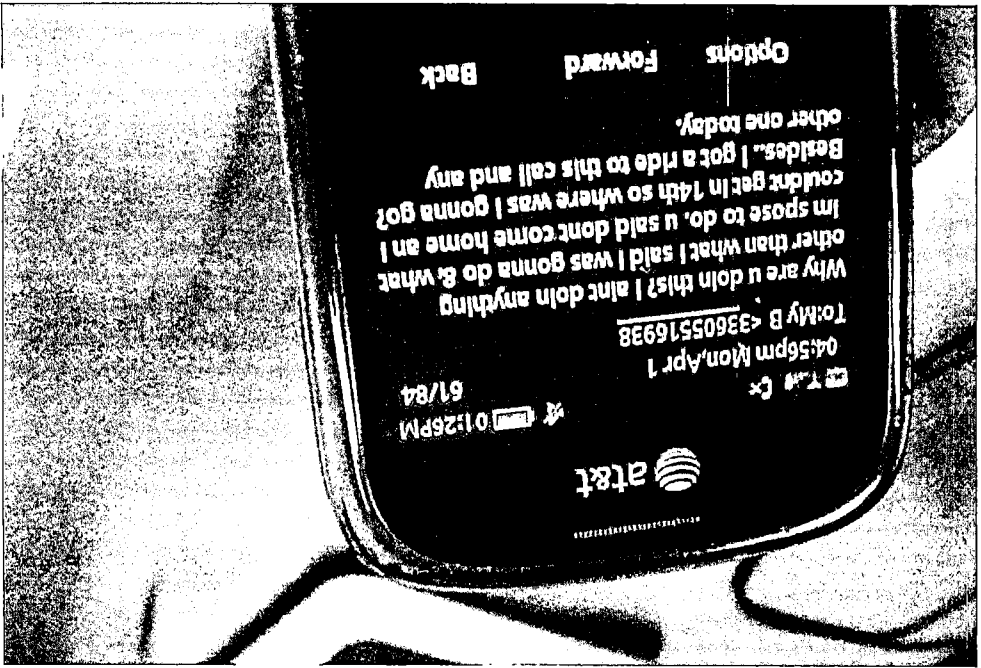
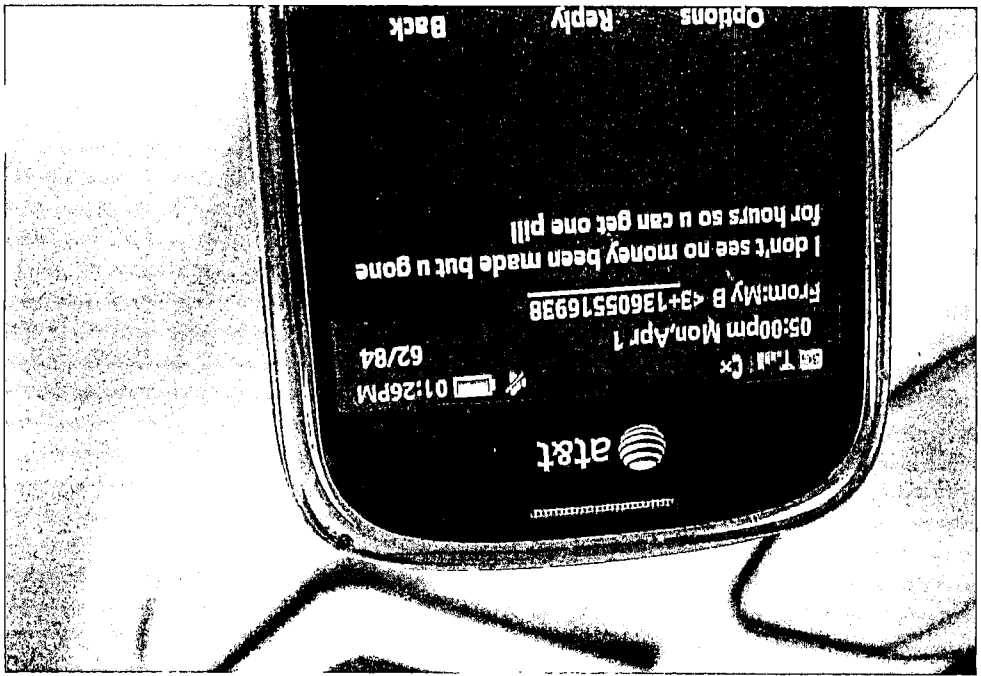
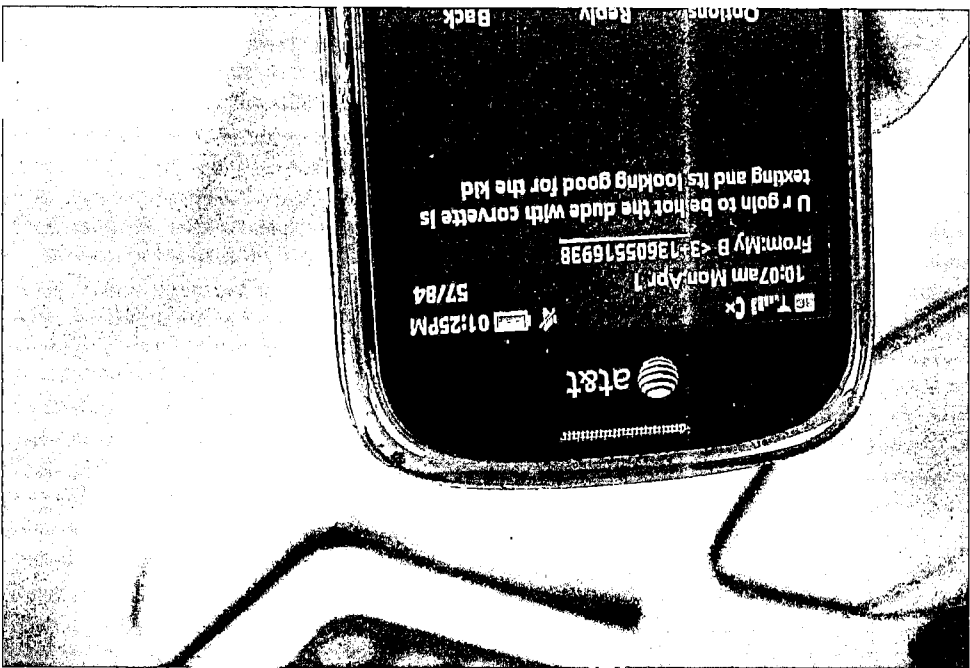
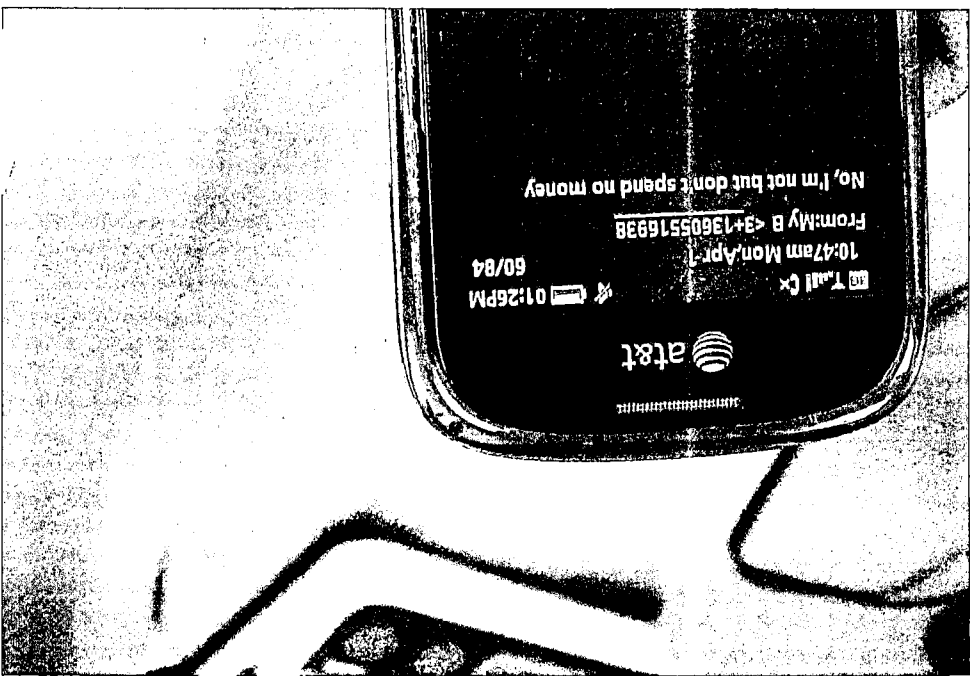




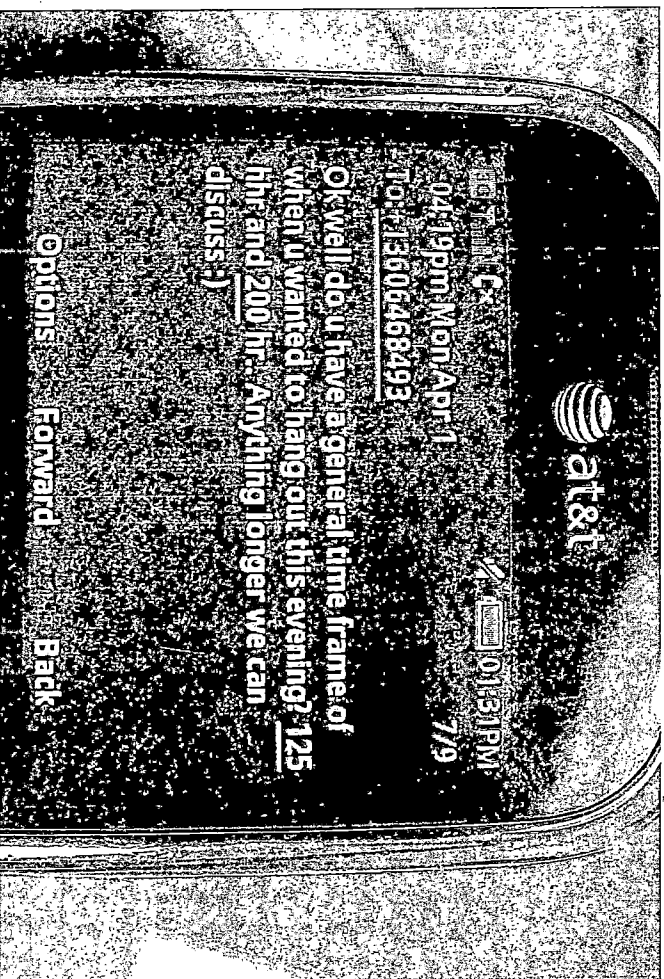
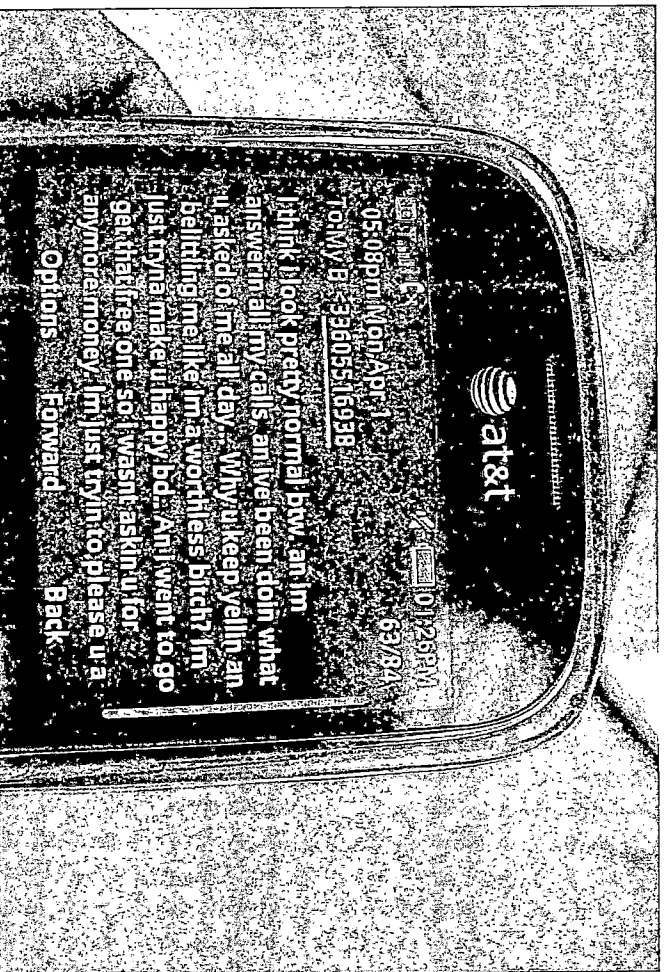
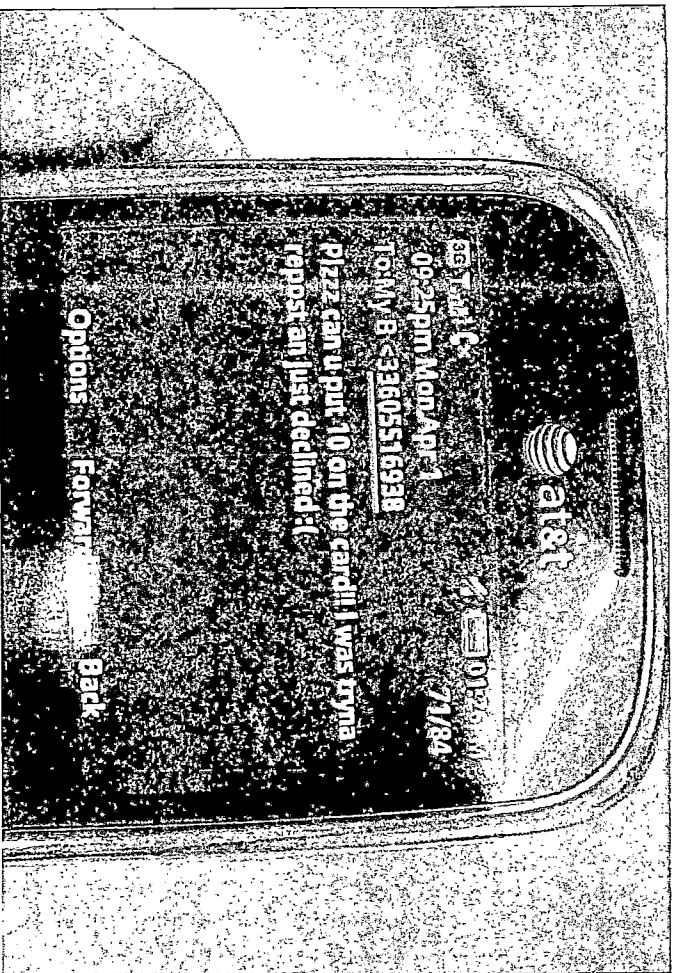
Text  
Messages To And  
From PARKER

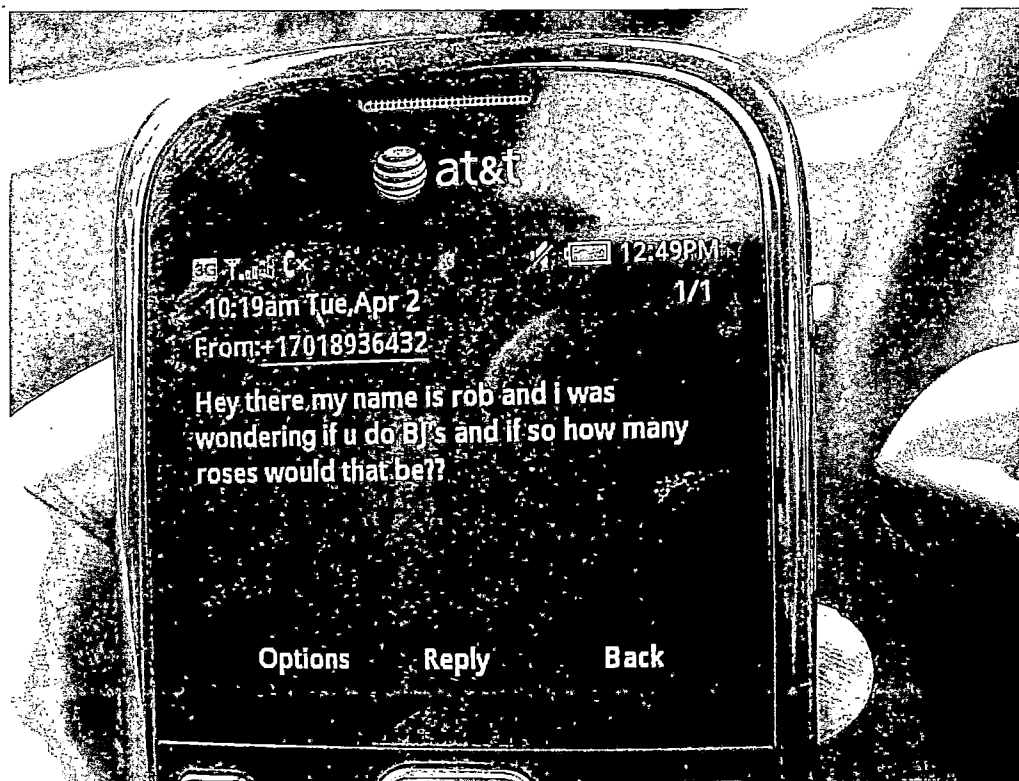
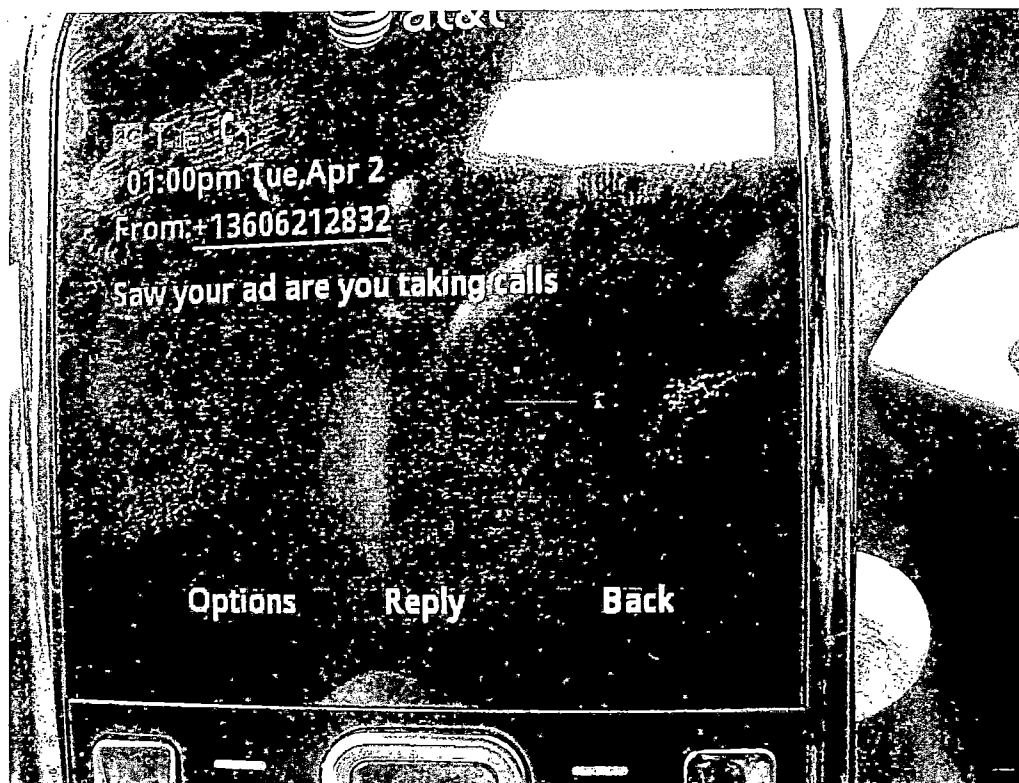


Text Message To And From Parker

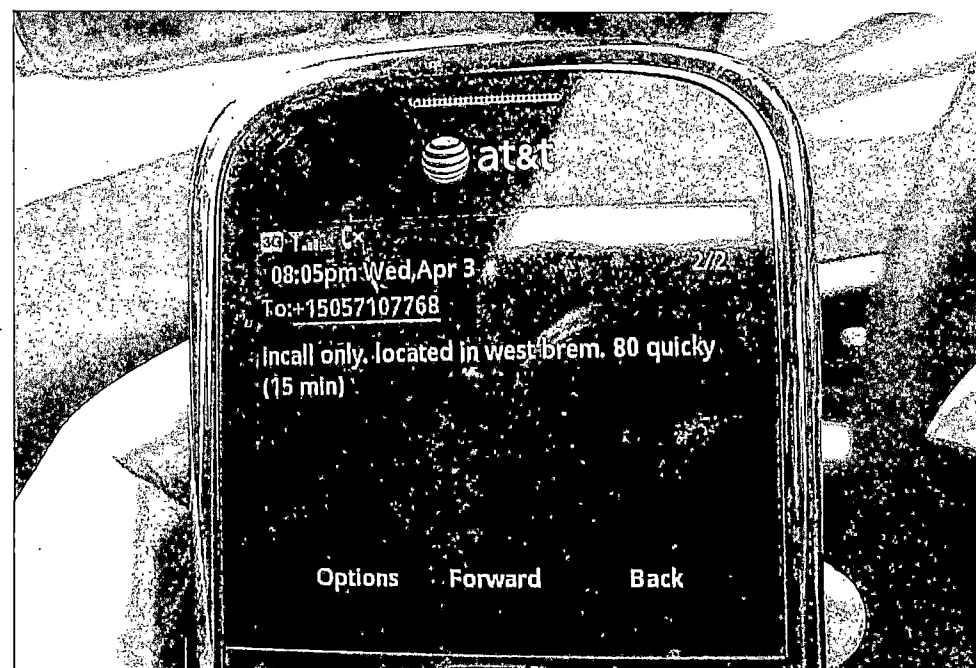
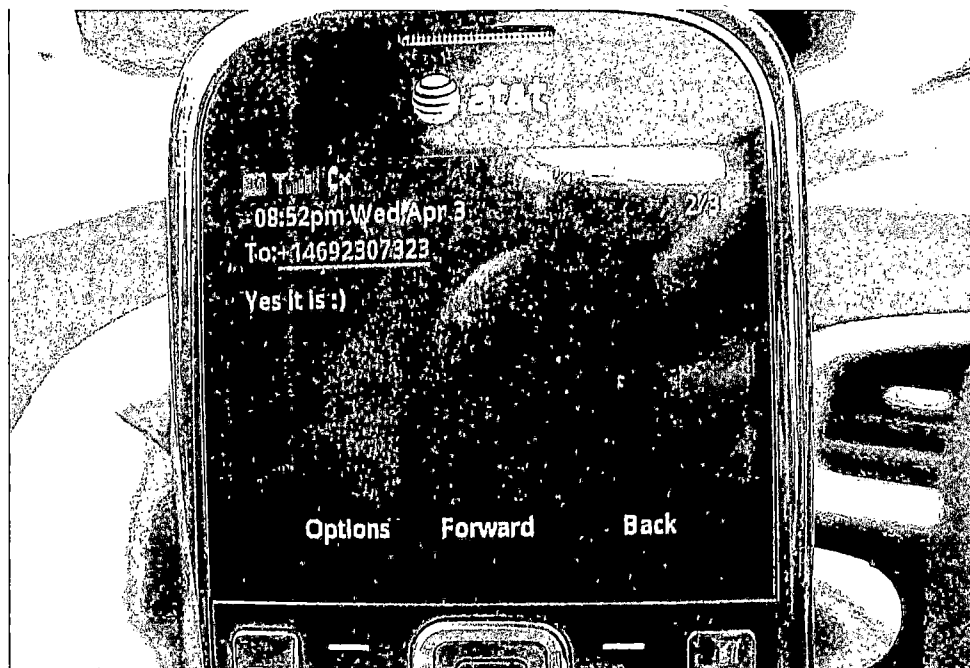
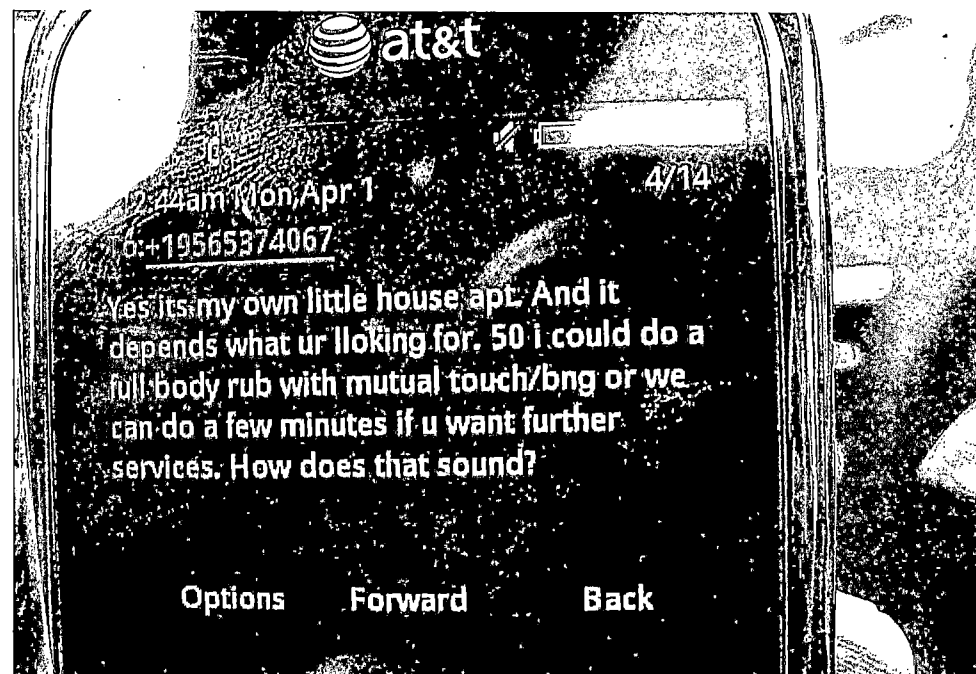
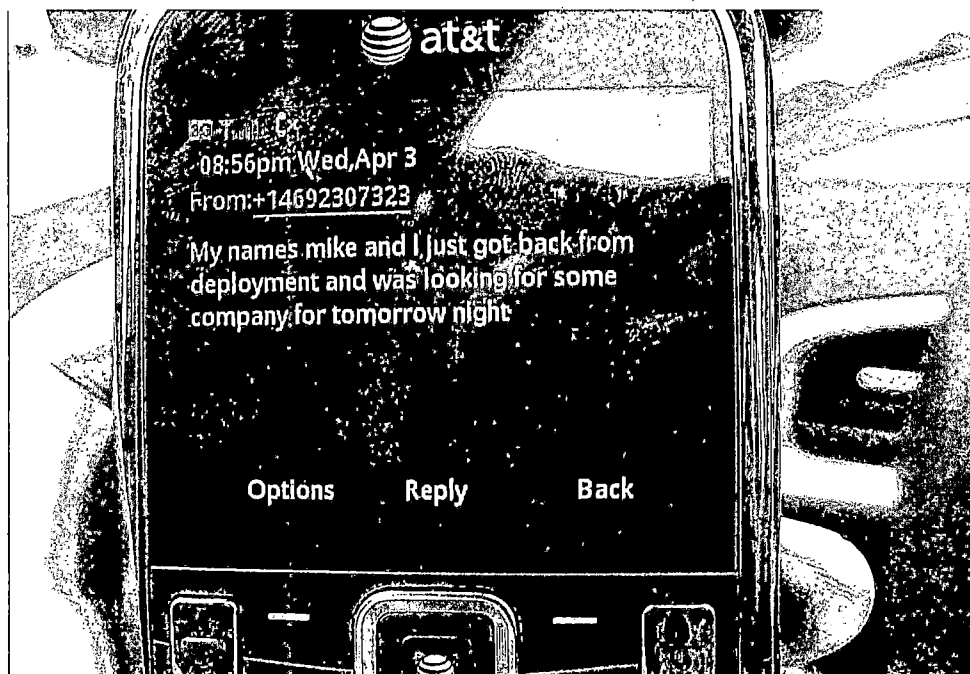


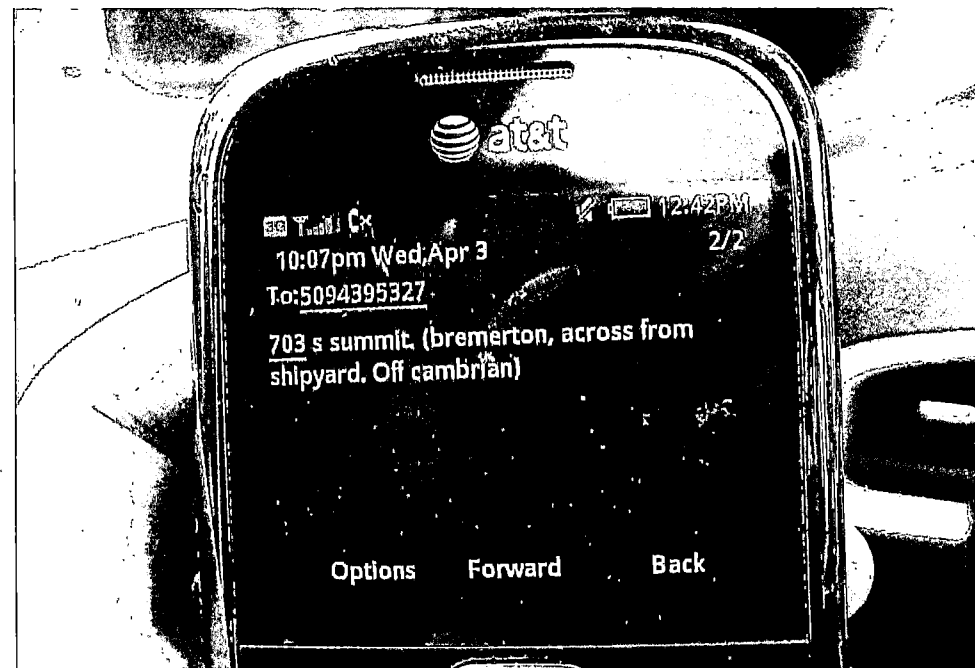
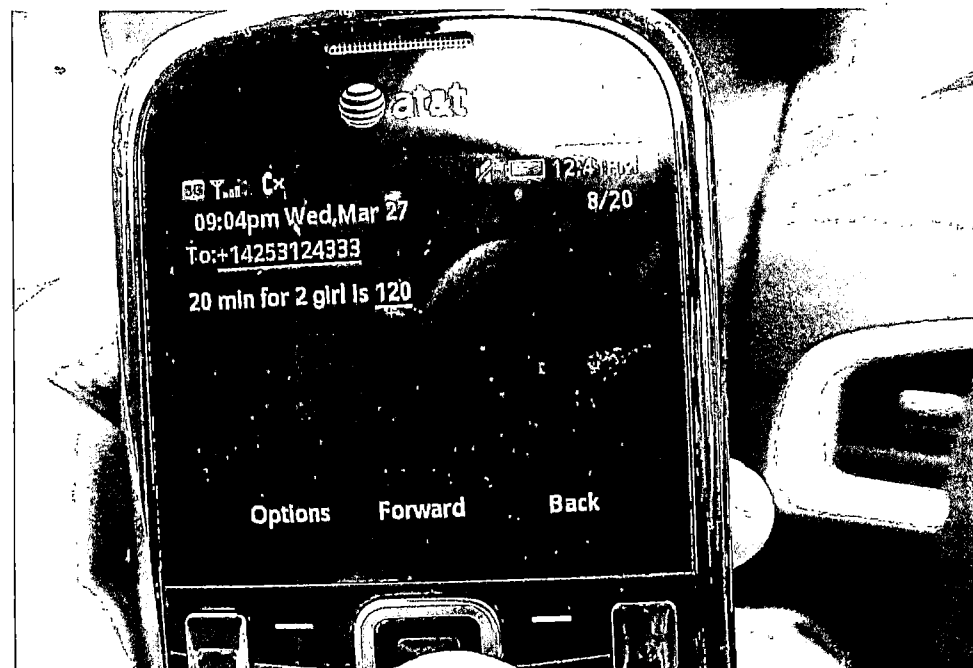
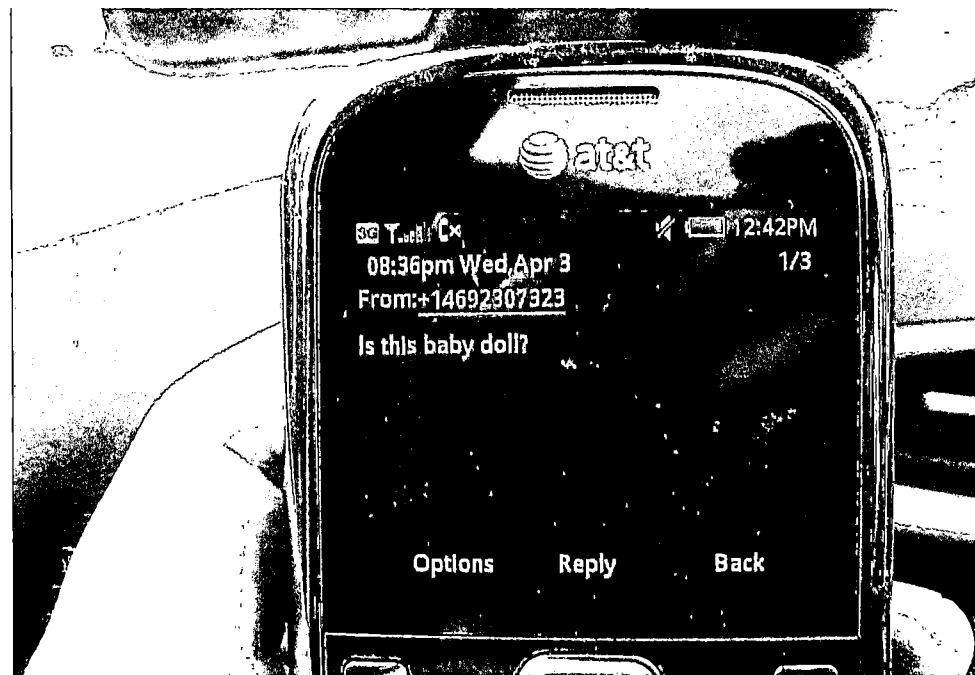
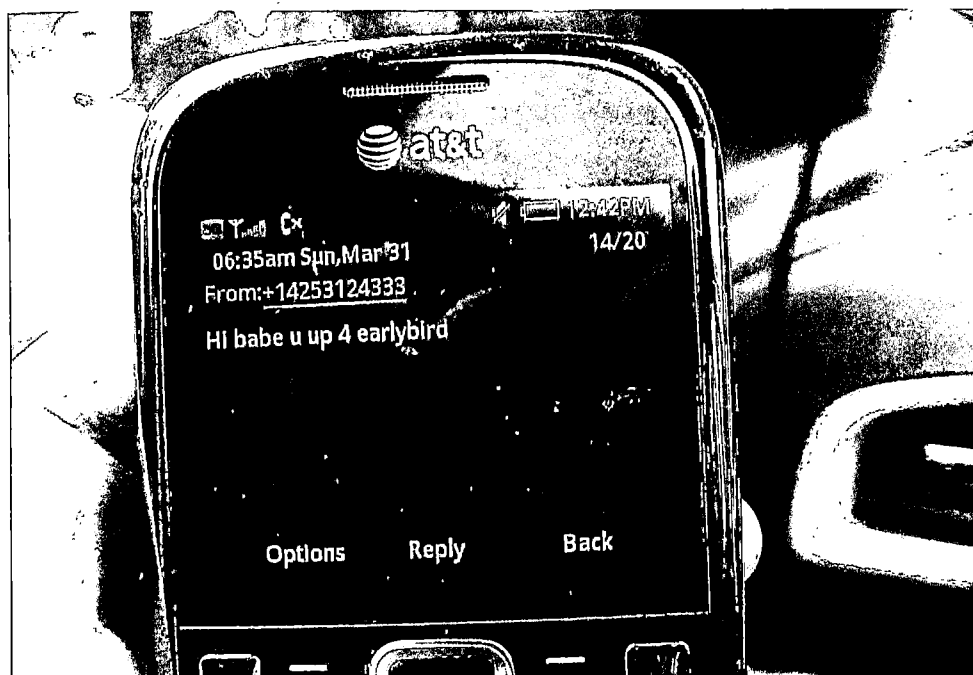
Text  
Messages To Parker

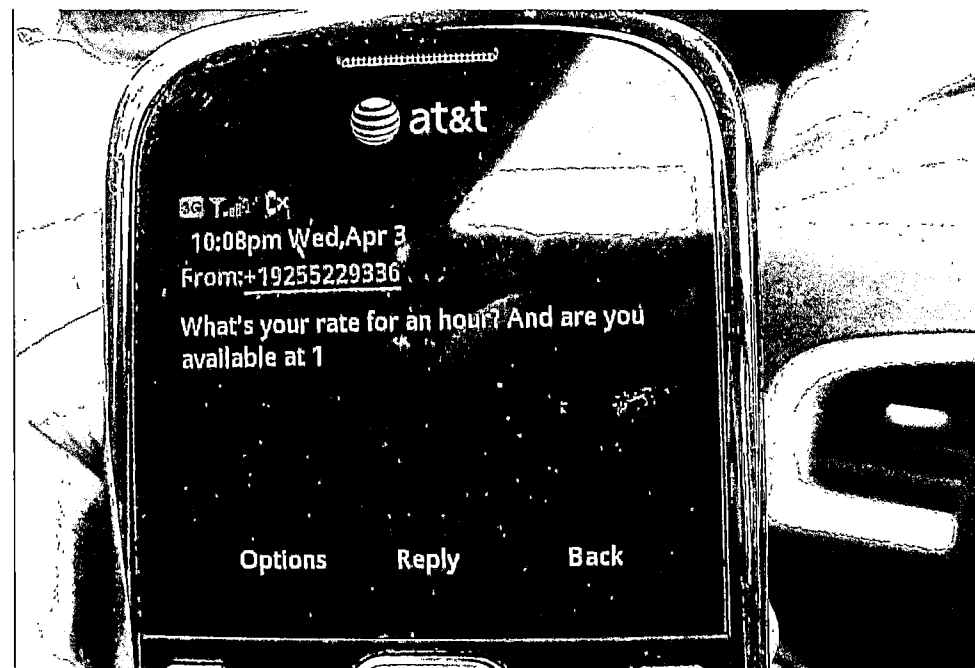
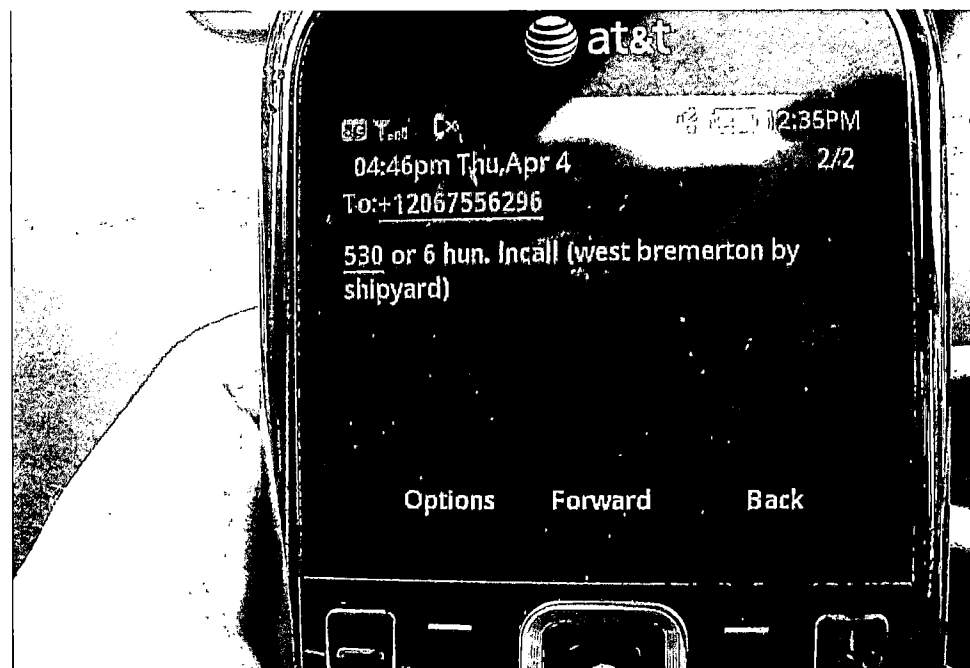
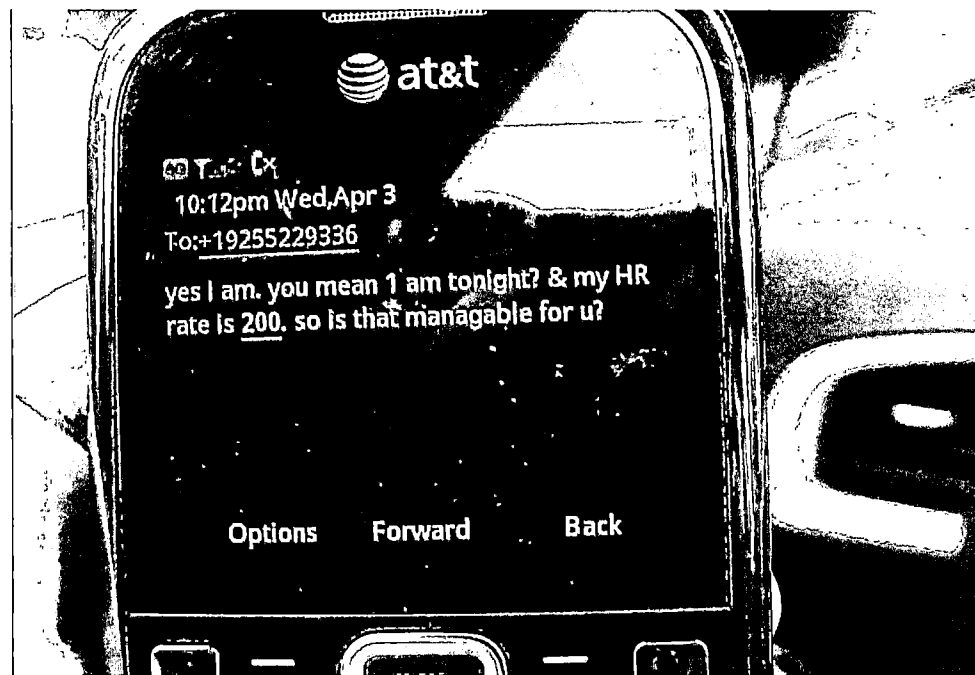
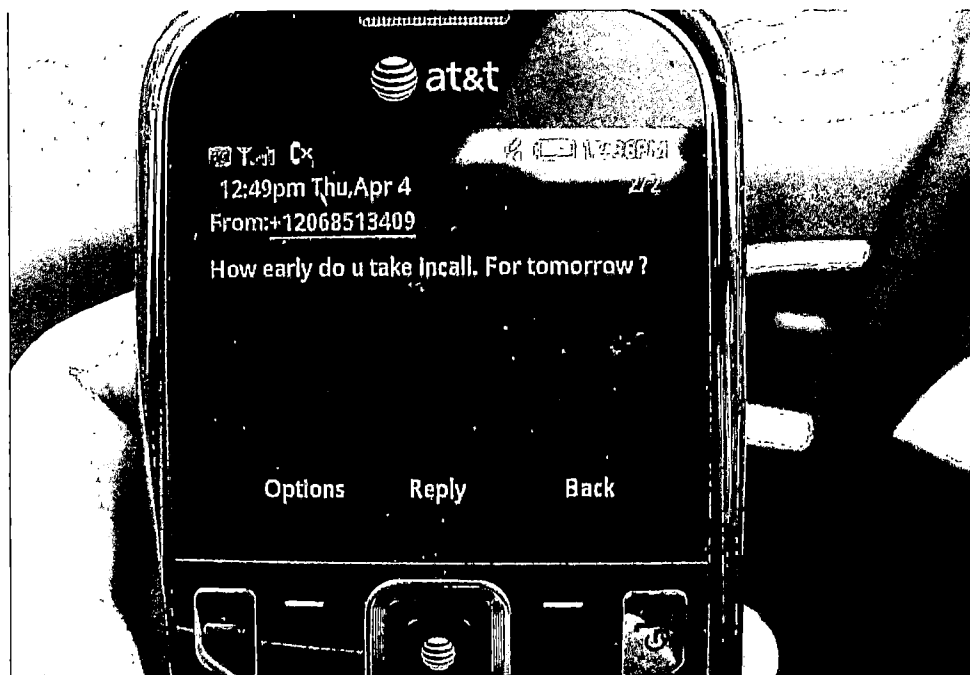


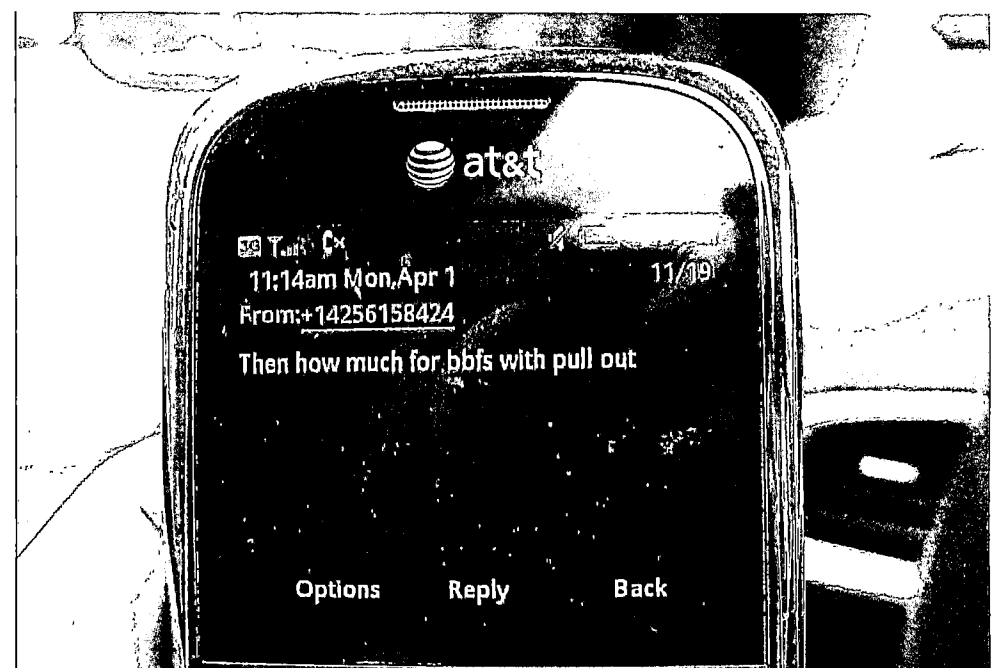
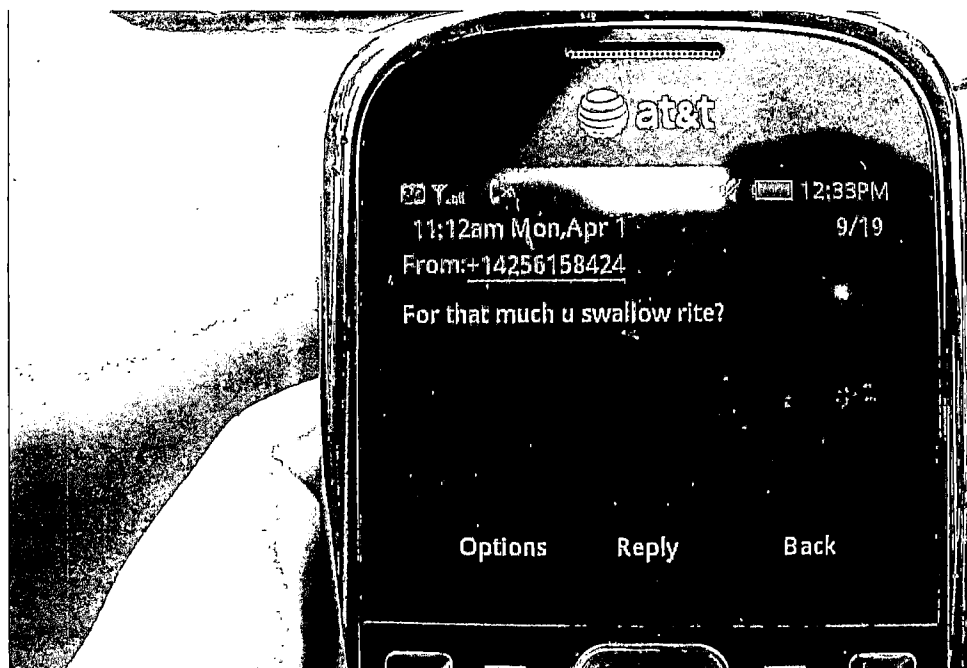
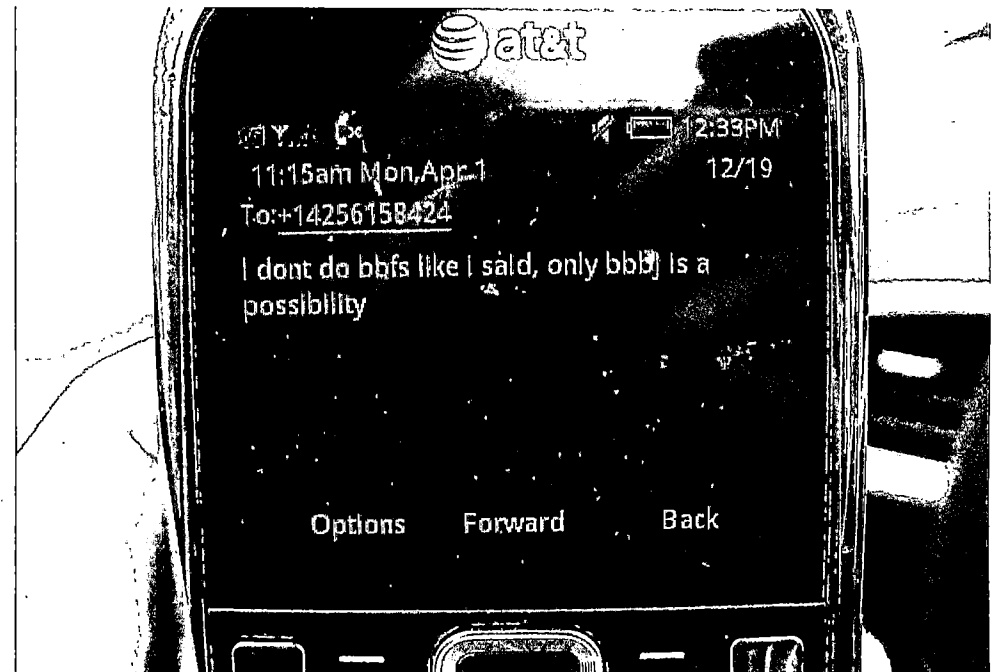
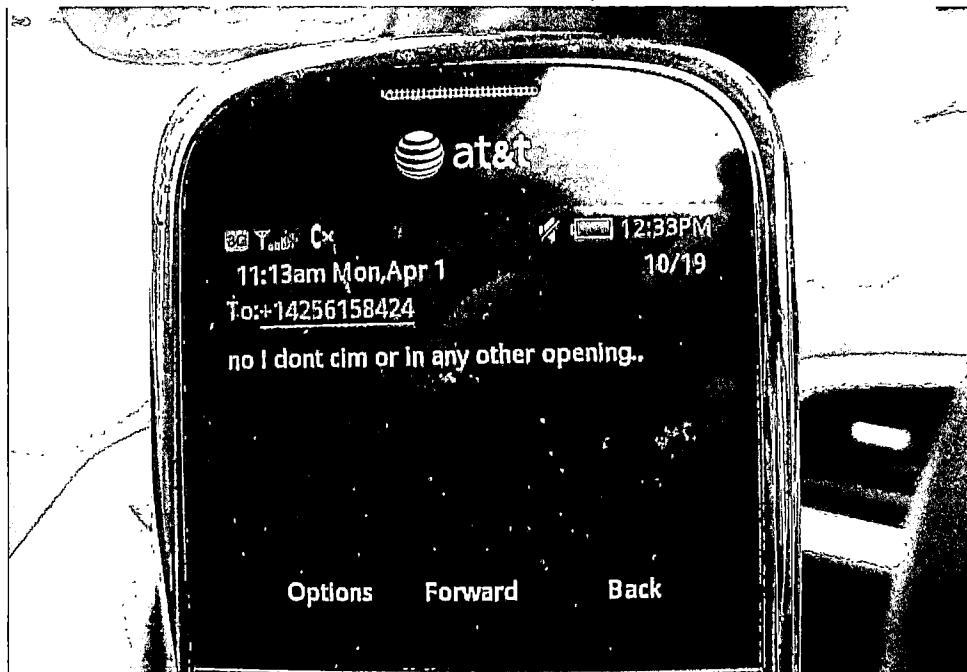


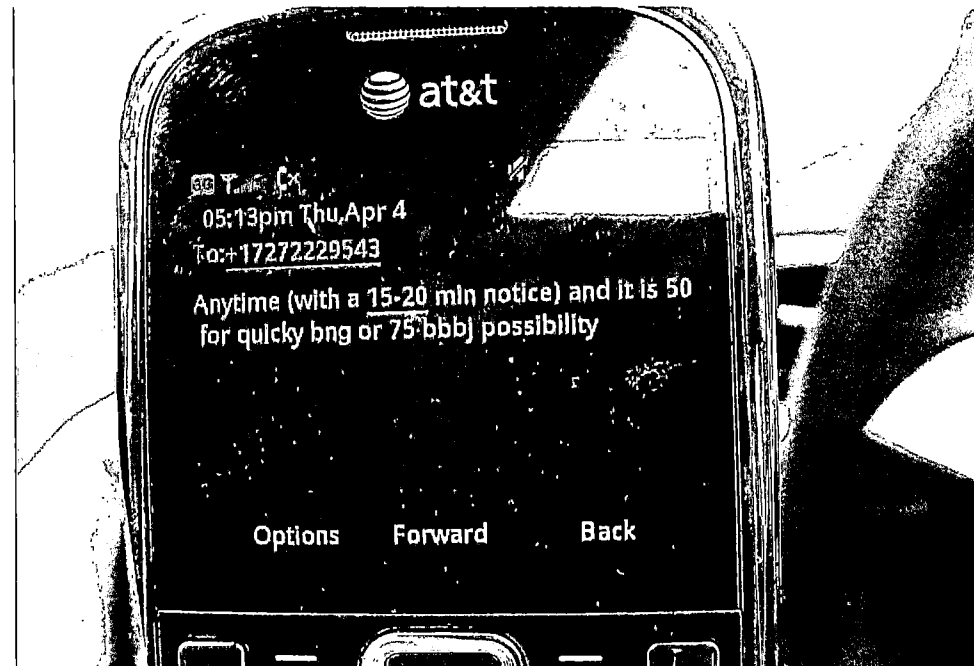
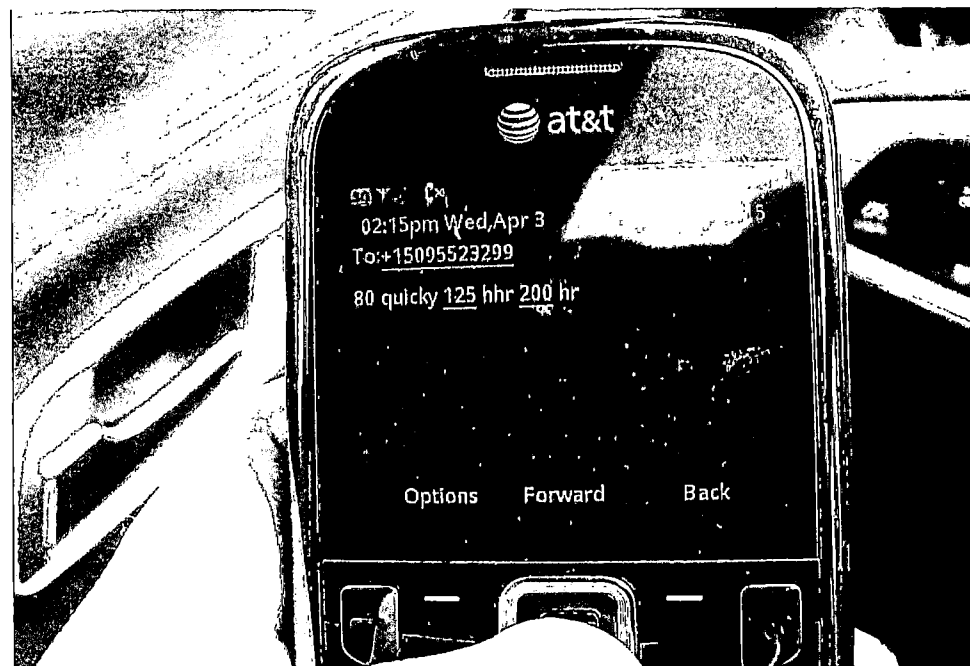
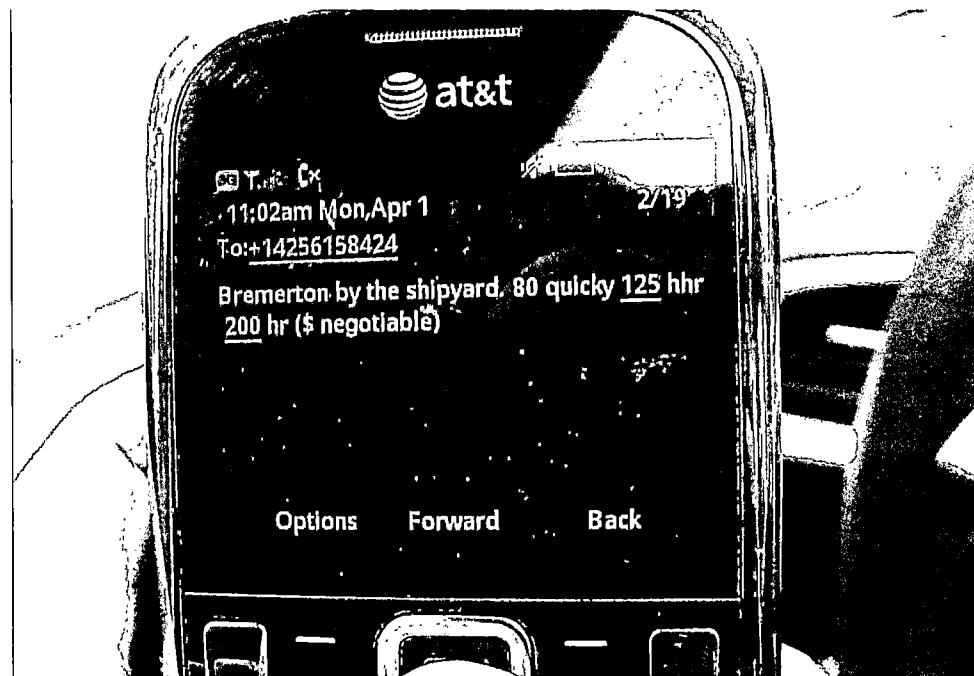
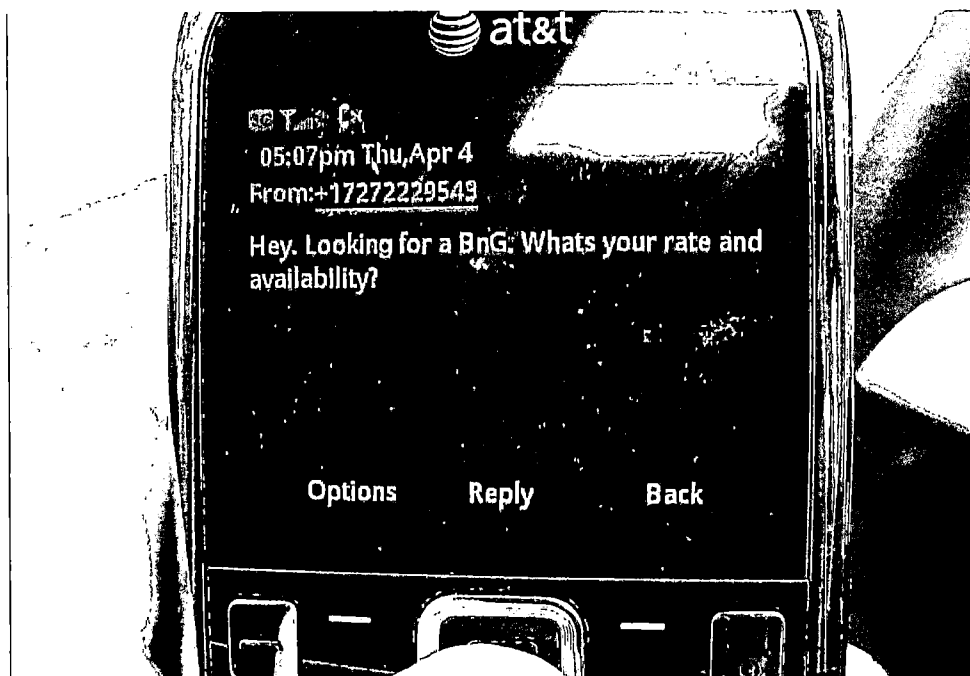


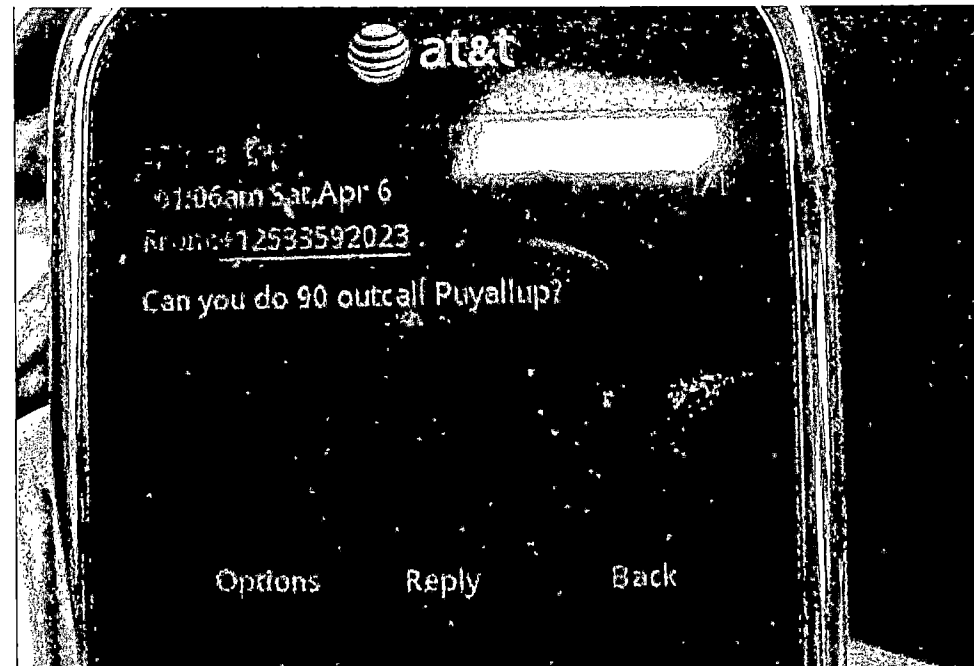
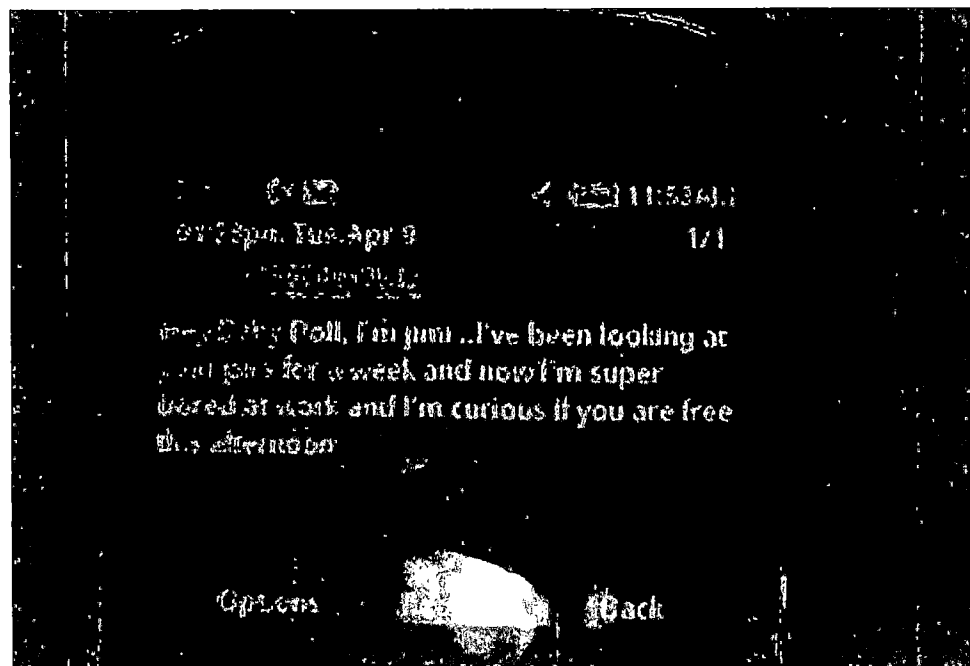
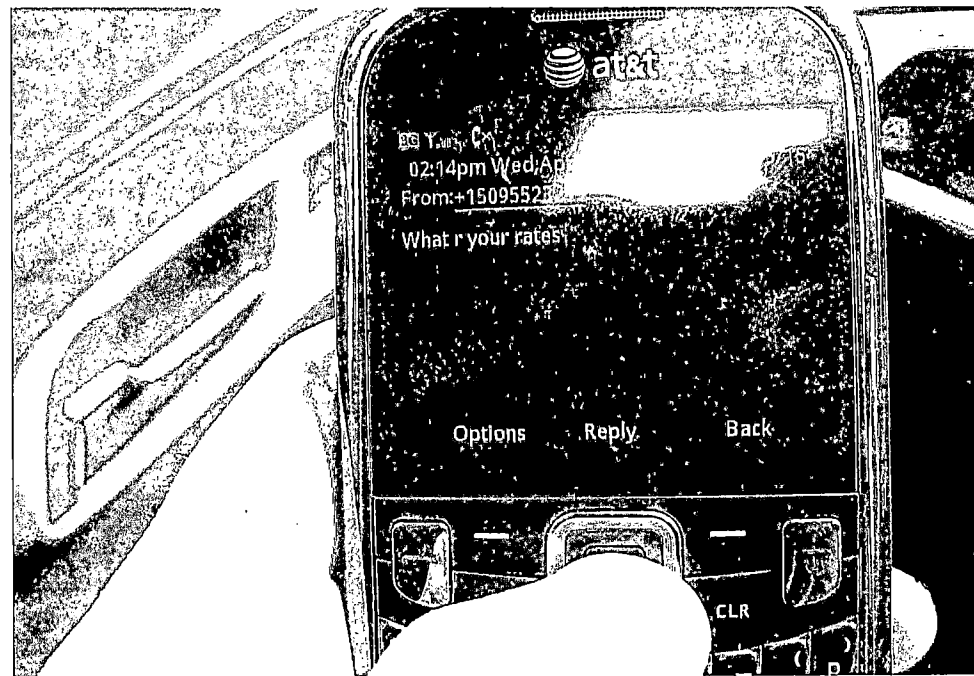
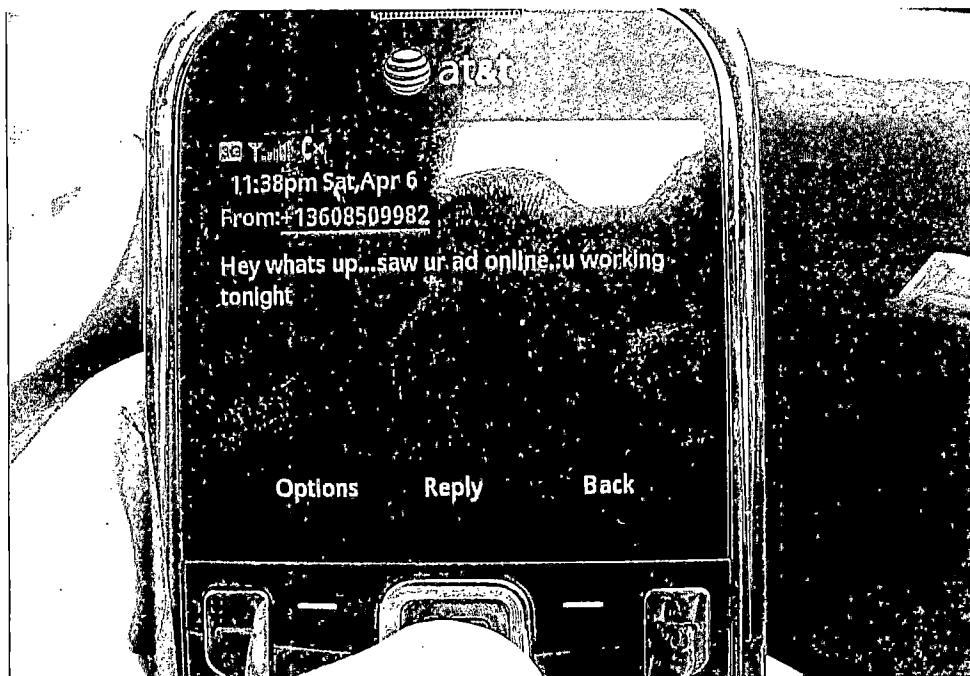


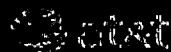












01:43PM  
+12534058871 2:36am Fri, Mar 29 109/136

Are u sure??  
are u still gonna be up?  
YES, take the first brem exit im  
across from the shipyard.

Type to send a message

Options View Back



01:49PM  
+18157918208 02:05pm Thu, Mar 28 121/136

care of myself.  
What kind of show? Not sure what we  
can provide for 150  
Just wanna watch ya eat each other  
out

Type to send a message

Options View Back



01:41PM  
+19124672000 08:44pm Fri, Mar 28 107/136

Hi saw your post on bp are you  
available?

ABC  
Type to send a message

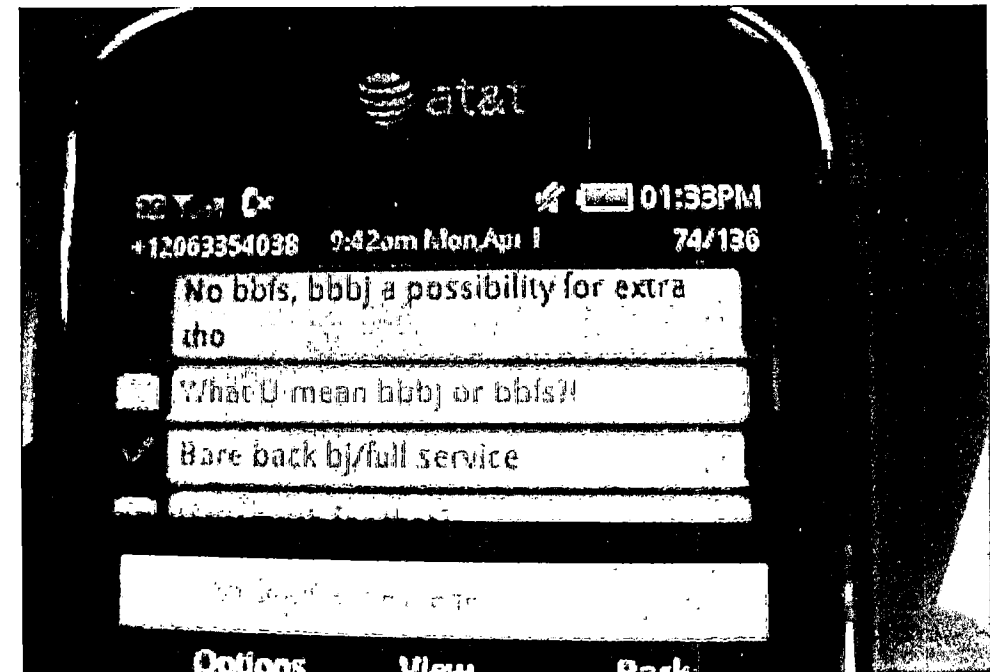
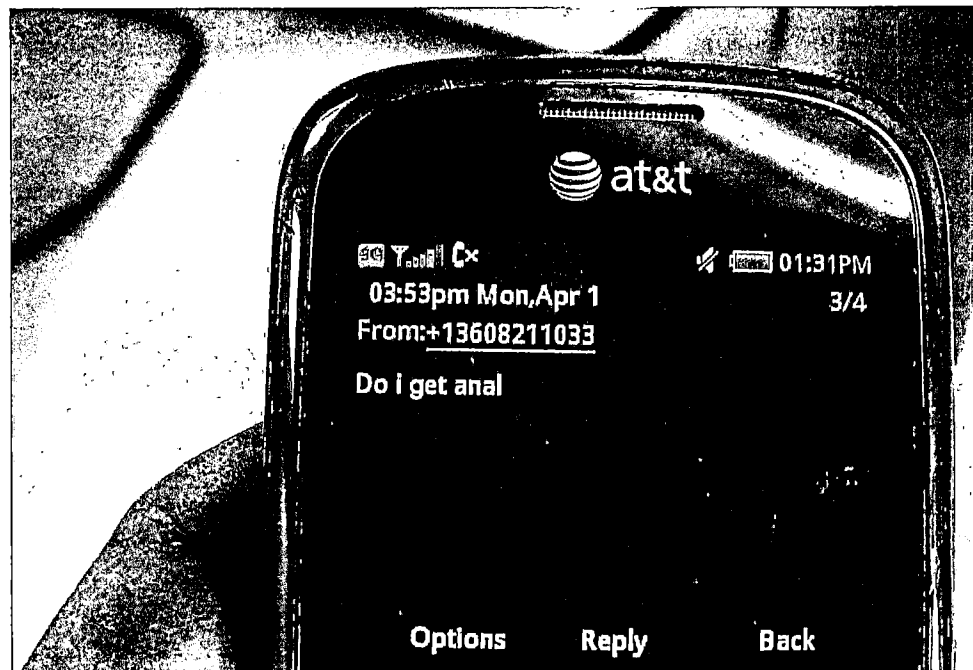
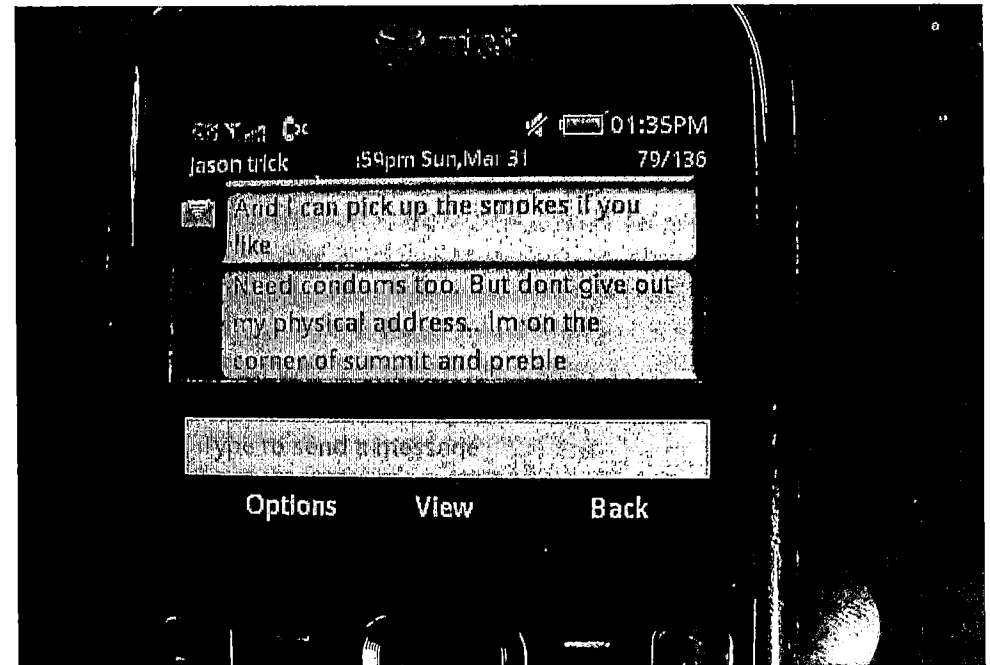
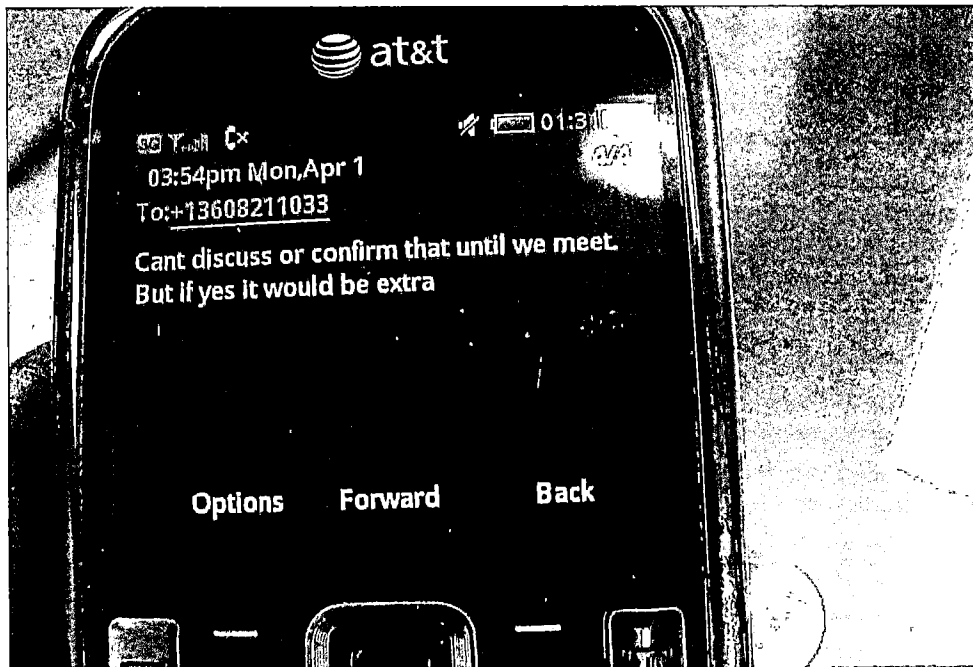
Options Back

01:46PM  
+13604639939 1:47pm Thu, Mar 28 116/136

Hi. Saw your add. Are you available?  
will b in Bremerton in 15-20 minutes  
I will be available at 11 if ur  
interested  
Ok. Where r u?

Type to send a message

Options View Back





6:12 PM

◀ eyed \* [b] [e] [a] [u] [t]... ▶

Call me 360-908-2471

Sent via my LG Marquee from Boost  
Mobile

jessecowboys@gmail.com wrote:

>From: jessecowboys@gmail.com

>

>Hello, would love to hang out some  
time and play a game of pool. How do I  
go about making this happen?

>

>Jes

>

>To view this posting, please click the  
following link:

><http://seattle.backpage.com/>

# facebook

The password you entered is incorrect. Please try again.

Already have an account?



**Tony Parker**  
tparker77@gmail.com

PARKER'S EMAIL  
ACCOUNT

boost mobile

6:10 PM

Drafts Outbox Sent Trash

tpabc77@gmail.com

Previous days

Suspicious sign in preve...

no-reply@accounts.google.com 4/12/2013

tacoma.backpage.com: ...

tacoma.backpage.com 4/11/2013

Immaculate222, you hav...

PCIP 4/10/2013

Immaculate222, you h...

4/10/2013

Daily Bible Verse for 04...

4/5/2013

PARKER  
→  
EMAIL ACCOUNT





Image



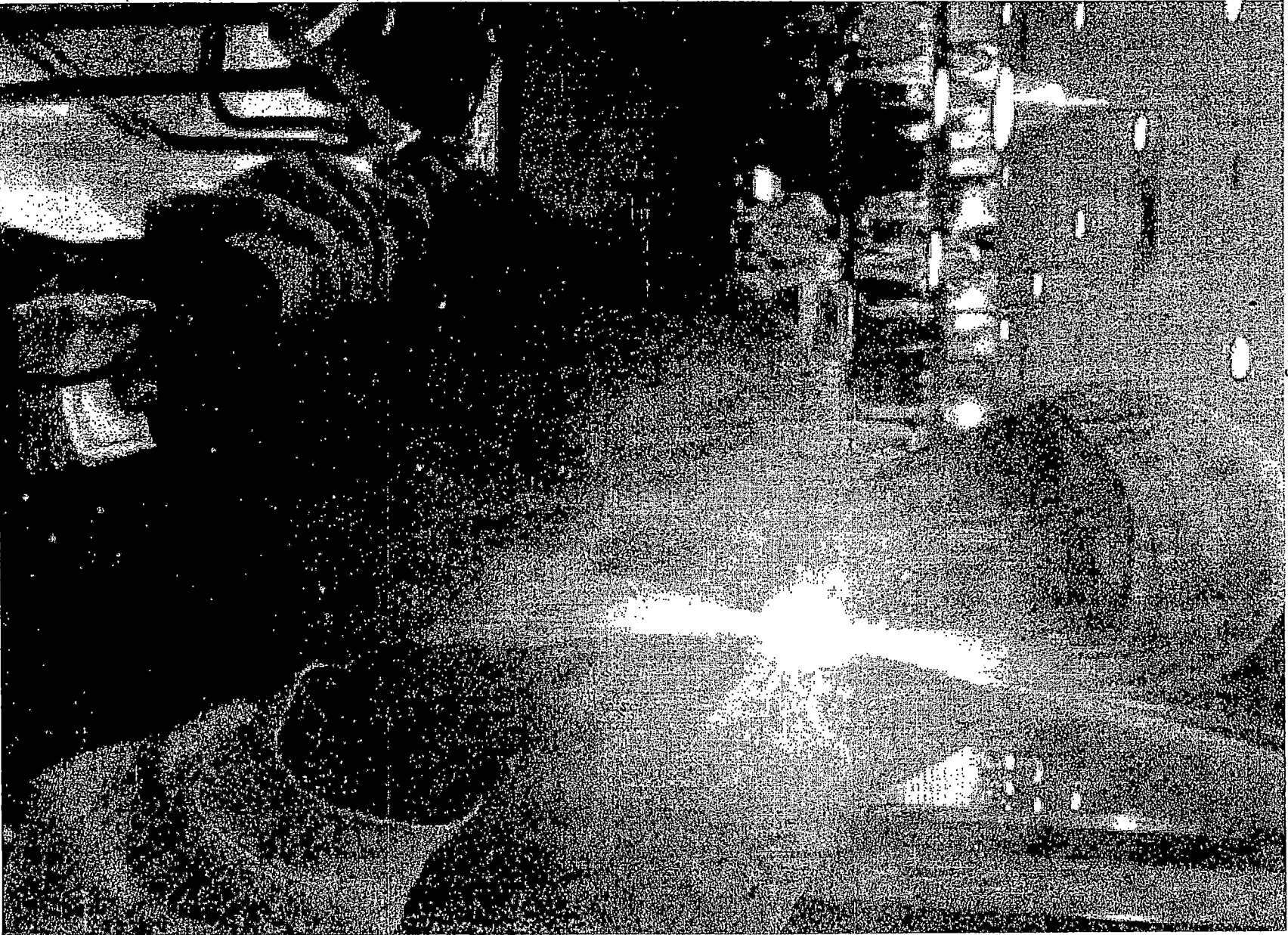
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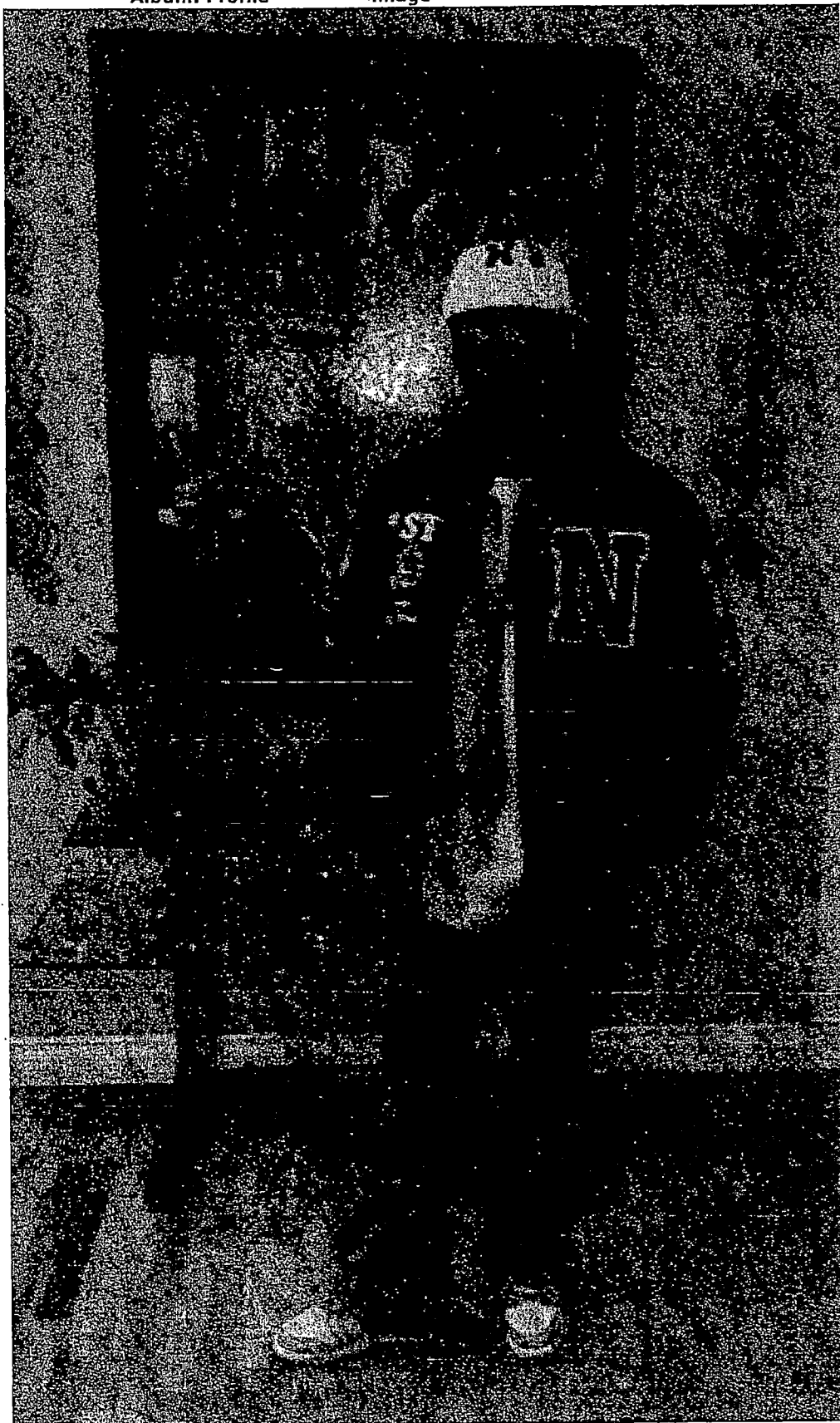




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Image

Album: Profile

Image



Id 132022416972695

Title

Album: Profile

Image



Id 132022416972695

Title

APPENDIX #5 MOTION TO Suppress

IN THE COURT OF APPEALS  
of The State of Washington  
Division II

State of Washington  
Plaintiff,

v.

Anthony D. Parker  
Defendant

No. 13-1-00597-1

Defendant's MOTION to  
SUPPRESS EVIDENCE and  
DISMISS THE CASE  
Pursuant to CrR 3.5/3.6

I. Motion

COMES NOW the Defendant/Appellant, Anthony D. Parker, by and through his own accord Pro Se, and MOVES this Court for an ORDER to Suppress Evidence and Dismiss or Remand for New Trial pursuant to CrR 3.5/3.6 and Affidavit of Facts in Part II.

II. Affidavit of Facts

This declaration is made pursuant to CrR 3.5 and 3.6. Under no circumstances should this declaration be considered a waiver of attorney-client privilege, or any other privilege while on direct appeal.

For the purpose of this motion, the State sought to

admit evidence of a cell phone belonging to Johanna Holliday, which was taken from her on April 4, 2013 by a Bremerton Police officer without her consent, without a warrant, and absent a search incident to arrest. On April 4, 2013, Holliday was detained for a possible drug violation by the Bremerton Police. Officer Heffernan went to the vehicle and withdrew Holliday's purse and cell phone. One pill was found. Officer Heffernan told Holliday he was taking her cell phone. This was done without her consent given. Holliday was released from her detainment and agreed she would meet with them the following day.

Holliday did not meet with them as planned, but was arrested on April 12, 2013, due to police setting up a sting to arrest her.


Prior to the arrest of Holliday, officer Heffernan sought a warrant on April 8, 2013, for evidence, to wit, the cell phone that was unlawfully seized. Stored inside the phone was a wealth of Parker's personal information, such as an email account with Backpage, provocative pictures of Holliday, and private communications through text messages. The phone was seized without a warrant or consent from Holliday or Parker.

The information that was obtained unlawfully sent police to setting up a sting to arrest Holliday, by which

she was arrested on the 12th of April, upon which she was interviewed and spoke to the detective of other crimes, but mainly about a firearm. Parker was arrested later that day along with the firearm.

This Motion comes post-conviction, because the Kitsap County Superior Court erred when the court failed to suppress at the Reference Hearing, and is attached to Defendant's Personal Restraint Petition for this Court to review.

I, Anthony D. Parker, do swear under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

 3/6/18

Signature

Dickerson v. Wainwright, 626 F.2d 1184 (1980)

### III. Argument and Supporting Authority

Washington State Constitution Article 1, Section 7, provides: "No person shall be disturbed in his private affairs, or his home invaded, without Authority of law." Thus, Article 1, Section 7 "...clearly recognizes an individual's right to privacy with no express limitations." State v. White, 97 Wn.2d 92, 110, 640 P.2d 1061 (1982).

The Fourth Amendment protects individuals against unreasonable searches and seizures. U.S. Const. Amend. IV. "Searches and seizures that offend the Fourth Amendment are unlawful, and evidence obtained as a direct or indirect

result of such invasions is considered 'fruit of the poisonous tree' and is inadmissible under the exclusionary rule." United States v. McClendon, 713 F.3d 1211, 1215 (9th Cir.. 2013).

Disturbing a person's private affairs without Authority of law is contrary to Article 1, Section 7, of the Washington State Constitution. The State Constitution is at least coextensive with the federal constitution, so any warrantless search under the Fourth Amendment also implicates Art. 1, §7 of our state constitution. See State v. Coss, 87 Wn.App. at 906.

On April 4, 2013, Officer Heffernan disturbed and intruded into Parker's private affairs when he took a cell phone as evidence to be used against Parker. There was no consent from Holliday or Parker, and there was no warrant, nor was the phone seized incident to arrest. Officer Heffernan acted without the 'Authority of Law,' thus violating Parker's protection right that is guaranteed by Article 1, Section 7 and the Fourth Amendment.

Absent a valid warrant to seize the cell phone as evidence, any and all evidence obtained and derived from the search of that phone must be suppressed as 'fruits of the poisonous tree.' See State v. Meaghan, 165 Wn.App. 782, 266 P.3d 222 (2012).

Article 1, Section 7 of the Washington Constitution



protects against unlawful intrusions into private affairs. State v. Harrington, 167 Wn.2d 656, 663, 222 P.3d 92 (2009). Warrantless searches and seizures are presumed unlawful unless an exception to the warrant requirement applies. State v. Grande, 164 Wn.2d 135, 141, 187 P.3d 248 (2008). Consent is a recognized exception to the warrant requirement. State v. Reichenbach, 153 Wn.2d 126, 131, 101 P.3d 80 (2004).

Under our state constitution, officers of the law must have actual authority of the law to intrude into private affairs, even the affairs of bad men. State v. Winterstein, 167 Wn.2d 620, 636, 220 P.3d 1226 (2009).

Evidence can be collected without a search warrant only when it is obtained incident to a lawful arrest. State v. Smith, 56 Wn.2d 368, 353 P.2d 155 (1960).

When an unconstitutional search or seizure occurs, all subsequently uncovered evidence becomes fruit of the poisonous tree and must be suppressed. State v. Ladson, 138 Wn.2d at 360.

In balancing the legitimate needs of law enforcement to obtain information in criminal investigations against the privacy interest of individuals, the Washington Privacy Act, Washington Revised Code ch. 9.73, unlike similar statutes in other states, tips the balance in favor of individual privacy at the expense of law enforcement's

ability to gather evidence without a warrant. State v. Hinton, 179 Wn.2d at 872.

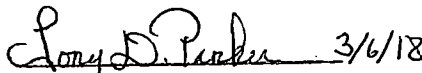
The essence of the constitutional provision prohibiting unreasonable searches and seizures is not merely that evidence so acquired shall not be used before a court, but that it shall not be used at all. United States v. Wong Sun, 371 U.S. at 485.

Therefore, the evidence obtained from the unlawful seizure of the cell phone must be suppressed, and the case dismissed or remanded for a new trial because the former convictions were obtained through fruit of the poisonous tree. Hinton, supra at 862.

#### Conclusion

The trial court erred when it denied the Defendant's motion to suppress evidence that the police seized in violation of the Defendant's right to privacy under Washington State Constitution, Article 1, Section 7, and United States Constitution, Fourth Amendment. As a result, this Court should reverse the Defendant's conviction for a new trial and remand with instructions to grant the Defendant's Motion to Suppress.

Respectfully submitted,

 3/6/18  
Anthony D. Parker

# AFFIDAVIT

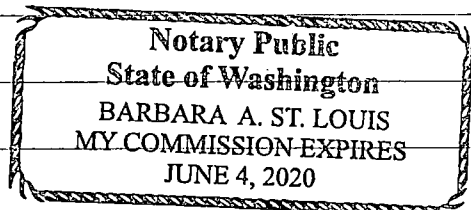
I, ANTHONY D. PARKER, AN INMATE WHO RESIDES AT STAFFORD CREEK CORRECTION CENTER DO SOLEMNLY SWEAR UNDER THE LAWS OF PENALTY AND PERJURY OF THE STATE OF WASHINGTON THAT THE FOLLOWING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Anthony Parker  
Date 3-6-18

State of Washington  
County of Grays Harbor

Signed or attested before me on 3-6-18 by Anthony Parker

Barbara A. St. Louis  
6-4-20



FILED  
COUNT OF APPEALS  
DIVISION II  
2018 MAR -8 AM 11:34  
STATE OF WASHINGTON  
DEPUTY

STATEMENT OF FINANCES:

2018 MAR -8 AM 11:34

If you cannot afford to pay the \$250 filing fee or cannot afford to pay an attorney to help you, fill out this form. If you have enough money for these, do not fill out this part of the form. If **currently in confinement, please attach a copy of your prison finance statement.**

DEPUTY

1. I do ☒ do not ☐ ask the court to file this without making me pay the \$250 filing fee because I am so poor and cannot pay the fee.

2. I have \$ ☐ in my prison or institution account. **(NOTE: you must complete #2 of this statement, whether you submit a copy of your prison account summary or not).**

3. I do ☒ do not ☐ ask the court to appoint a lawyer for me because I am so poor and cannot afford to pay a lawyer.

4. I am ☒ am not ☐ employed. My salary or wages amount of \$ ☐ a month. My employer is \_\_\_\_\_

5. During the past 12 months I did ☐ did not ☒ get any money from a business, profession or other form of self-employment. (please identify type of self-employment here \_\_\_\_\_) and the total income I received was \$ \_\_\_\_\_

6. During the past 12 months I:

I did ☐ did not ☒ receive any rent payments, if so, the total I received was \$ ☐

I did ☐ did not ☒ receive any interest. If so, the total I received was \$ ☐

I did ☐ did not ☒ receive any dividends. If so, the total I received was \$ ☐

I did ☐ did not ☒ receive any other money. If so, the total I received was \$ ☐

I do ☐ do not ☒ have any cash except as said in question 2 of this statement of finances. If so the total amount I have is \$ ☐

I do ☐ do not ☒ have any savings or checking accounts. If so, the total amount in all accounts is \$ ☐

I do ☐ do not ☒ own stocks, bonds or notes. If so, their total value is: \$ ☐

7. List all real estate and other property or things of value that belong to you or in which you have an interest. Tell what each item or property is worth and how much you owe on it. Do not list household furniture and furnishings and clothing that you or your family need:

ITEMS

VALUE

8. I am \_\_\_\_\_ am not X married. If I am married, my wife or husband's name and address is: \_\_\_\_\_

9. All of the persons who need me to support them are listed below:

NAME & ADDRESS

RELATIONSHIP

AGE

10. All the bills I owe are listed here:

Name & Address of Creditor

Amount Owed

State of Washington  
County of Grays Harbor

Larry D. Parker 776122

Feb 22, 2018 <sup>TP</sup> Dated

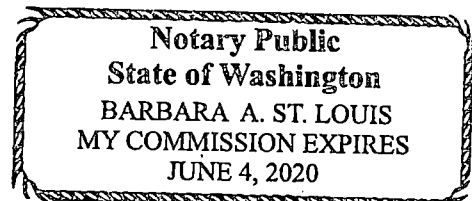
March 6, 2018 Dated

Signed or Attested before Me on 3-6-18

by Anthony Parker

Barbara Stiller

6-4-20



01/09/2018

Department of Corrections

PAGE: 01 OF 01

KFALLISON

STAFFORD CREEK CORRECTIONS CENTER

OIRPLRAR

10.2.1.18

PLRA IN FORMA PAUPERIS STATUS REPORT  
FOR DEFINED PERIOD 06/30/2017 TO 12/31/2017

DOC#: 0000776122

NAME: PARKER ANTHONY

ADMIT DATE: 01/16/2014

DOB: 06/15/1979

ADMIT TIME: 10:50

AVERAGE MONTHLY RECEIPTS	20% OF RECEIPTS	AVERAGE SPENDABLE BALANCE	20% OF SPENDABLE
23.30	4.66	22.89	4.58

State of WashingtonCounty of Grays Harbor

Signed or Attested before Me

on 3-6-18 by Anthony ParkerBarbara A. St. Louis

6-4-20

STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS  
OFFICE OF CORRECTIONAL OPERATIONS  
STAFFORD CREEK CORRECTION CENTER  
CERTIFIED BY: B. AlvinAnthony Parker

March 6, 2018

Notary Public  
State of Washington  
BARBARA A. ST. LOUIS  
MY COMMISSION EXPIRES  
JUNE 4, 2020